

Department of
CRIMINAL JUSTICE TRAINING

KENTUCKY JUSTICE AND PUBLIC SAFETY CABINET

2007



Leadership is a behavior, not a position

KENTUCKY REVISED STATUTES
CHANGES
KENTUCKY GENERAL ASSEMBLY



John W. Bizzack, Ph.D.
Commissioner



Department of
CRIMINAL JUSTICE TRAINING

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The Leadership Institute Branch of the Department of Criminal Justice Training offers a Web-based service to address questions concerning legal issues in law enforcement. Questions can now be sent via e-mail to the Legal Training Section at

docjt.legal@ky.gov

- ▶ Questions concerning changes in statutes, current case laws and general legal issues concerning law enforcement agencies and/or their officers will be addressed by the Legal Training Section.
- ▶ Questions concerning the Kentucky Law Enforcement Council policies and KLEFPF will be forwarded to the DOCJT General Counsel for consideration.
- ▶ Questions received will be answered in approximately two or three business days.
- ▶ Please include in the query your name, rank, agency and a daytime phone number in case the assigned attorney needs clarification on the issues to be addressed.



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NOTE:

General Information concerning the Department of Criminal Justice Training may be found at <http://docjt.ky.gov>. Agency publications may be found at <http://docjt.ky.gov/publications.asp>.

In addition, the Department of Criminal Justice Training has a new service on its web site to assist agencies that have questions concerning various legal matters. Questions concerning changes in statutes, current case laws, and general legal issues concerning law enforcement agencies and/or their officers can now be addressed to docjt.legal@ky.gov. The Legal Training Section staff will monitor this site, and questions received will be forwarded to a staff attorney for reply. Questions concerning the Kentucky Law Enforcement Council policies and those concerning KLEFPF will be forwarded to the DOCJT General Counsel for consideration. It is the goal that questions received be answered within two to three business days (Monday-Friday). Please include in the query your name, agency, and a day phone number or email address in case the assigned attorney needs clarification on the issues to be addressed.

2007 Kentucky Statutory Updates

EFFECTIVE DATE OF NEW STATUTES IS JUNE 26th, 2007

NOTE: Title headings on new statutes are assigned by the Legislative Research Commission, and are not officially part of said statutes. New legislation, or changes to existing legislation, are in bold type face, underlined and italicized. Text that has been removed is within brackets.

Officers and Agencies are strongly advised to discuss new statutes with local prosecutors before placing charges.

SENATE BILL 23 Assistance Dogs

KRS 258.500 IS AMENDED TO READ AS FOLLOWS:

- (1) As used in subsections (1) to (11) of this section, "person" means a "person with a disability" as defined by KRS 210.770. "Person" also includes a trainer of an assistance dog.
- (2) If a person is accompanied by an assistance dog, neither the person nor the dog shall be denied admittance to any hotel, motel, restaurant, or eating establishment, nor shall the person be denied full and equal accommodations, facilities, and privileges of all public places of amusement, theater, or resort when accompanied by an assistance dog.
- (3) Any person accompanied by an assistance dog shall be entitled to full and equal accommodations on all public transportation, if the dog does not occupy a seat in any public conveyance, nor endanger the public safety.
- (4) No person shall be required to pay additional charges or fare for the transportation of any accompanying assistance dog.
- (5) No person accompanied by an assistance dog shall be denied admittance and use of any public building, nor denied the use of any elevator operated for public use.
- (6) Any person accompanied by an assistance dog may keep the dog in his immediate custody while a tenant in any apartment, or building used as a public lodging.
- ~~(7) [The provisions of this section shall not apply unless the assistance dog has been trained or is being trained by a recognized training agency or school, and is properly harnessed.]~~
- ~~(8) (a) Except as provided in paragraph (b) of this subsection, all persons accompanied by an assistance dog shall have in their personal possession a certificate issued by the assistance dog training agency or school establishing that their dogs have been so trained.~~
 - ~~(b) All trainers accompanied by an assistance dog shall have in their personal possession identification verifying that they are trainers of assistance dogs.~~
- (9)** The provisions of this section shall not apply unless the person complies with the legal limitations applicable to nondisabled persons and unless all requirements of KRS 258.015 and 258.135 have been complied with.

- ~~(9)(10)~~ Assistance dogs are exempt from all state and local licensing fees.
- ~~(10)(11)~~ Licensing authorities shall accept that the dog for which the license is sought is an assistance dog if the person requesting the license is a person with a disability or the trainer of the dog [when a copy of the certificate, as required under subsection (8) of this section, is attached to the licensing form].
- ~~(11)(12)~~ Emergency medical treatment shall not be denied to an assistance dog assigned to a person regardless of the person's ability to pay prior to treatment.
- ~~(12)~~ No person shall willfully or maliciously interfere with an assistance dog or the dog's user.

KRS 258.991 IS AMENDED TO READ AS FOLLOWS:

Any person violating KRS 258.500(2), (3), (4), (5), (6), (11), or (12) shall be punished by a fine of not less than two hundred and fifty dollars (\$250), nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not less than 10 nor more than 30 days, or both. No person shall be charged with a violation of KRS 258.500(2), (3), (4), (5), (6), (11), or (12) if the requirements of KRS 258.500 (7) ~~(8)~~ are not met.

SENATE BILL 43 Human Trafficking

A NEW SECTION OF KRS CHAPTER 422 IS CREATED TO READ AS FOLLOWS:

KRS 422.295 Confidentiality of communications between human trafficking victim and caseworker.

(1) As used in this section:

- (a) "Confidential communication" means information transmitted between the victim and the caseworker in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the human trafficking counselor is consulted and includes all information regarding the facts and circumstances involving the trafficking;**
- (b) "Holder of the privilege" means the victim when he or she has no guardian or conservator, or a guardian or conservator of the victim when the victim has a guardian or conservator;**
- (c) "Trafficking victim counselor" includes any of the following:**
- 1. A counselor, as that term is defined in Rule 506 of the Kentucky Rules of Evidence;**
 - 2. A psychotherapist as that term is defined in Rule 507 of the Kentucky Rules of Evidence; and**
 - 3. A person employed and supervised by one of the persons specified in this paragraph to render services to human trafficking victims and who has received forty**

(40) hours of training in the history of human trafficking, civil and criminal law as it relates to human trafficking, societal attitudes towards human trafficking, peer counseling techniques, housing, public assistance and other financial resources available to meet the financial needs of human trafficking victims, and referral services available to human trafficking victims.

- (2) A human trafficking victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communication made to a trafficking victim counselor for the purpose of receiving counseling, therapy, services, information or treatment related to human trafficking.
- (3) A human trafficking caseworker shall inform a trafficking victim of any applicable limitations on confidentiality of communications between the victim and the caseworker. This information may be given orally.

A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

KRS 431.063 Human trafficking victim not to be incarcerated pending trial --
Exceptions.

A victim of human trafficking shall not be held in a detention center, jail, or other secure facility pending trial for an offense arising from the human trafficking situation except where the incarceration is found to be the least restrictive alternative to securing the appearance of that person before the court or the release of the person under any other reasonable condition would be a clear threat to public safety.

KRS 506.120 IS AMENDED TO READ AS FOLLOWS:

- (1) A person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall not do any of the following:
- (a) Organize or participate in organizing a criminal syndicate or any of its activities;
 - (b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;
 - (c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;
 - (d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;
 - (e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;
 - (f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;
 - (g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 or 521, or KRS 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080, 18A.145, or 244.600.
- (2) Whoever violates this section is guilty of engaging in organized crime, which shall be a Class B felony.
- (3) As used in this section "criminal syndicate" means five (5) or more persons collaborating to promote or engage in any of the following on a continuing basis:
- (a) Extortion or coercion in violation of KRS 514.080 or 521.020;

- (b) Engaging in, promoting, or permitting prostitution or human trafficking in violation of KRS Chapter 529;
- (c) Any theft offense as defined in KRS Chapter 514;
- (d) Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or Section 226 of the Constitution;
- (e) Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237;
- (f) Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

KRS 529.010 IS AMENDED TO READ AS FOLLOWS:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Advancing prostitution" -- A person "advances prostitution" when acting other than as a prostitute or as a patron thereof, he knowingly causes or aids a person to engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution.[-]
- (2) "Commercial sexual activity" means prostitution, participation in the production of obscene material as set out in KRS Chapter 531, or engaging in a sexually explicit performance;
- (3) "Forced labor or services" means labor or services that are performed or provided by another person and that are obtained through force, fraud, or coercion;
- (4) "Force, fraud, or coercion" may only be accomplished by the same means and methods as a person may be restrained under KRS 509.010;
- (5) "Human trafficking" refers to criminal activity whereby one (1) or more persons are subjected to engaging in:
 - (a) Forced labor or services; or
 - (b) Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen (18), the commercial sexual activity need not involve force, fraud, or coercion;
- (6) "Labor" means work of economic or financial value;
- ~~(7)(2)~~ "Profiting from prostitution" -- A person "profits from prostitution" when acting other than as a prostitute receiving compensation for personally rendered prostitution services, he knowingly accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in proceeds of prostitution activity.[-]
- (8) "Services" means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor;
- ~~(9)(3)~~ "Sexual conduct" means sexual intercourse or any act of sexual gratification involving the sex organs; and
- (10) "Sexually-explicit performance" means a performance of sexual conduct involving:
 - (a) Acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse, actual or simulated;
 - (b) Physical contact with, or willful or intentional exhibition of the genitals;
 - (c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or

(d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution outside the family.

A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

KRS 529.100 Human trafficking

- (1) A person is guilty of human trafficking when the person intentionally subjects one (1) or more persons to human trafficking.
- (2) (a) Human trafficking is a Class C felony unless it involves serious physical injury to a trafficked person, in which case it is a Class B felony.
- (b) If the victim of human trafficking is under eighteen (18) years of age, the penalty for the offense shall be one level higher than the level otherwise specified in this section.

A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

KRS 529.110 Promoting human trafficking.

- (1) A person is guilty of promoting human trafficking when the person intentionally:
- (a) Benefits financially or receives anything of value from knowing participation in human trafficking; or
- (b) Recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, or provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking.
- (2) Promoting human trafficking is a Class D felony, unless a victim of the trafficking is under eighteen (18), in which case it is a Class C felony.

KRS 529.040 IS AMENDED TO READ AS FOLLOWS:

- (1) A person is guilty of promoting prostitution [~~in the second degree~~] when he knowingly advances or profits from prostitution [~~by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two (2) or more prostitutes~~].
- (2) Promoting prostitution [~~in the second degree~~] is a Class **A misdemeanor, unless the person managed, supervised, controlled or owned, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two (2) or more prostitutes, in which case it is a Class** D felony.

KRS 17.500 IS AMENDED TO READ AS FOLLOWS:

As used in KRS 17.500 to 17.580:

- (1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;
- (2) "Cabinet" means the Justice and Public Safety Cabinet;
- (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 3. Sex crime;
 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 5. **Human trafficking involving commercial sexual activity as set forth in KRS 529.100;**
 6. Promoting prostitution, as set forth in **KRS 529.040** [~~KRS 529.030, 529.040, and 529.050~~], when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 6. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 7. Sexual abuse, as set forth in KRS 510.120 and 510.130;
 8. Unlawful transaction with a minor in the first degree as set forth in KRS 530.064(1)(a);
 9. Any offense involving a minor or depictions of a minor as set forth in KRS Chapter 531;
 10. Any attempt to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph; and
 11. Solicitation to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph;
 - (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) "Registrant" means:
 - (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:

1. A sex crime; or
2. A criminal offense against a victim who is a minor; or
 - (b) Any person required to register under KRS 17.510; or
 - (c) Any sexually violent predator; or
 - (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;
- (6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;
- (7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;
- (8) "Sex crime" means:
 - (a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, or 531.320;
 - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or
 - (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;
- (10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
- (11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554; and
- (12) "Victim" has the same meaning as in KRS 421.500.

KRS 413.249 IS AMENDED TO READ AS FOLLOWS:

- (1) As used in this section:
 - (a) "Childhood sexual assault" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a felony in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, **KRS 529.100 where the offense involves commercial sexual activity** ~~529.030~~, 530.020, 530.064, 531.310, or 531.320. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault;
 - (b) "Childhood sexual abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;
 - (c) "Child" means a person less than eighteen (18) years old; and
 - (d) "Injury or illness" means either a physical or psychological injury or illness.

- (2) A civil action for recovery of damages for injury or illness suffered as a result of childhood sexual abuse or childhood sexual assault shall be brought before whichever of the following periods last expires:
 - (a) Within five (5) years of the commission of the act or the last of a series of acts by the same perpetrator;
 - (b) Within five (5) years of the date the victim knew, or should have known, of the act; or
 - (c) Within five (5) years after the victim attains the age of eighteen (18) years.
- (3) If a complaint is filed alleging that an act of childhood sexual assault or childhood sexual abuse occurred more than five (5) years prior to the date that the action is commenced, the complaint shall be accompanied by a motion to seal the record and the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until:
 - (a) The court rules upon the motion to seal;
 - (b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed unless opened by a higher court; or
 - (c) The defendant files an answer and a motion to seal the record upon grounds that a valid factual defense exists, to be raised in a motion for summary judgment pursuant to CR 56. The record shall remain sealed by the clerk until the court rules upon the defendant's motion to close the record. If the court grants the motion to close, the record shall remain sealed until the defendant's motion for summary judgment is granted. The complaint, motions, and other related papers or pleadings shall remain sealed unless opened by a higher court.

KRS 421.350 IS AMENDED TO READ AS FOLLOWS:

- (1) This section applies only to a proceeding in the prosecution of an offense, including but not limited to an offense under KRS 510.040 to 510.150, ~~529.030 to 529.050~~, **KRS 529.040**, 529.070, **529.100**, **KRS 529.110**, 530.020, 530.060, 530.064(1)(a), 531.310, 531.320, 531.370, and all dependency proceedings pursuant to KRS Chapter 620, when the act is alleged to have been committed against a child twelve (12) years of age or younger, and applies to the statements or testimony of that child or another child who is twelve (12) years of age or younger who witnesses one of the offenses included in this subsection.
- (2) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence the court finds would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant.
- (3) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only those persons permitted to be present at the taking of testimony under subsection (3) of this section may be present during

the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by subsection (3) of this section. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant. The court shall also ensure that:

- (a) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;
 - (b) The recording equipment was capable of making an accurate recording, the operator was competent, and the recording is accurate and is not altered;
 - (c) Each voice on the recording is identified; and
 - (d) Each party is afforded an opportunity to view the recording before it is shown in the courtroom.
- (4) If the court orders the testimony of a child to be taken under subsection (2) or (3) of this section, the child may not be required to testify in court at the proceeding for which the testimony was taken.
- (5) For the purpose of subsections (2) and (3) of this section, "compelling need" is defined as the substantial probability that the child would be unable to reasonably communicate because of serious emotional distress produced by the defendant's presence.

KRS 439.3401 IS AMENDED TO READ AS FOLLOWS:

- (1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:
- (a) A capital offense;
 - (b) A Class A felony;
 - (c) A Class B felony involving the death of the victim or serious physical injury to a victim;
 - (d) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;
 - (e) Use of a minor in a sexual performance as described in KRS 531.310;
 - (f) Promoting a sexual performance by a minor as described in KRS 531.320;
 - (g) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
 - (h) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor ~~[Promoting prostitution in the first degree as described in KRS 529.030(1)(b)]~~;
 - (i) Criminal abuse in the first degree as described in KRS 508.100;
 - (j) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
 - (k) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or
 - (l) Robbery in the first degree.
- The court shall designate in its judgment if the victim suffered death or serious physical injury.
- (2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on probation or parole until he has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.
- (3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a

term of years or Class B felony who is a violent offender shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.

- (4) A violent offender may not be awarded any credit on his sentence authorized by KRS 197.045(1), except the educational credit. A violent offender may, at the discretion of the commissioner, receive credit on his sentence authorized by KRS 197.045(3). In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.
- (5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.
- (6) This section shall apply only to those persons who commit offenses after July 15, 1998.
- (7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.
- (8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

KRS 510.155 IS AMENDED TO READ AS FOLLOWS:

- (1) It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 529.100 where that offense involves commercial sexual activity ~~[529.030]~~, or 530.064(1)(a), or KRS Chapter 531.
- (2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to consummate in the commission of the same offense with the same minor or peace officer.
- (3) A violation of this section is punishable as a Class D felony.

KRS 530.064 IS AMENDED TO READ AS FOLLOWS:

- (1) A person is guilty of unlawful transaction with a minor in the first degree when he or she knowingly induces, assists, or causes a minor to engage in:
 - (a) Illegal sexual activity; or
 - (b) Illegal controlled substances activity other than activity involving marijuana;Except those offenses involving minors in KRS Chapter 531 and in KRS 529.100 where that offense involves commercial sexual activity ~~[KRS 529.030]~~.
- (2) Unlawful transaction with a minor in the first degree is a:
 - (a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
 - (b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
 - (c) Class A felony if the minor so used incurs physical injury thereby.

KRS 531.330 IS AMENDED TO READ AS FOLLOWS:

- (1) For purposes of **KRS 529.040 or 529.100 where the offense involves commercial sexual activity and for the purposes of** ~~KRS [529.030]~~ 530.070, 531.080 and 531.300 to 531.370, any person who appears to be under the age of eighteen (18), or under the age of sixteen (16), shall be presumed to be under the age of eighteen (18), or under the age of sixteen (16), as the case may be.
- (2) In any prosecution under **KRS 529.040 or 529.100 where the offense involves commercial sexual activity by a minor and in any prosecution under** ~~KRS [529.030]~~ 530.070, 531.080 and 531.300 to 531.370 the defendant may prove in exculpation that he in good faith reasonably believed that the person involved in the performance was not a minor.
- (3) The presumption raised in subsection (1) of this section may be rebutted by any competent evidence.

KRS 532.043 IS AMENDED TO READ AS FOLLOWS:

- (1) In addition to the penalties authorized by law, any person convicted of, pleading guilty to, or entering an Alford plea to a felony offense under KRS Chapter 510, **529.100 involving commercial sexual activity** ~~KRS [529.030]~~ 530.020, 530.064(1)(a), 531.310, or 531.320 shall be subject to a period of conditional discharge following release from:
 - (a) Incarceration upon expiration of sentence; or
 - (b) Completion of parole.
- (2) The period of conditional discharge shall be five (5) years.
- (3) During the period of conditional discharge, the defendant shall:
 - (a) Be subject to all orders specified by the Department of Corrections; and
 - (b) Comply with all education, treatment, testing, or combination thereof required by the Department of Corrections.
- (4) Persons under conditional discharge pursuant to this section shall be subject to the supervision of the Division of Probation and Parole.
- (5) If a person violates a provision specified in subsection (3) of this section, the violation shall be reported in writing to the Commonwealth's attorney in the county of conviction. The Commonwealth's attorney may petition the court to revoke the defendant's conditional discharge and reincarcerate the defendant as set forth in KRS 532.060.
- (6) The provisions of this section shall apply only to persons convicted, pleading guilty, or entering an Alford plea after July 15, 1998.

KRS 532.045 IS AMENDED TO READ AS FOLLOWS:

- (1) As used in this section:
 - (a) "Position of authority" means but is not limited to the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility, a holding facility as defined in KRS 600.020, or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health-care provider, or employer;
 - (b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and

- (c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.
- (2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS 510.050, 510.080, 529.040, ~~[529.030 to 529.050]~~, 529.070, 529.100 where the offense involves commercial sexual activity, 530.020, 531.310, 531.320, 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:
- (a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;
 - (b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;
 - (c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;
 - (d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;
 - (e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;
 - (f) A person convicted of kidnapping a minor in violation of the Kentucky Penal Code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;
 - (g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;
 - (h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or
 - (i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.
- Nothing in this section shall be construed to prohibit the additional period of five (5) years' conditional discharge required by KRS 532.043.
- (3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of the comprehensive sex offender presentence evaluation of the offender performed by an approved provider, as defined in KRS 17.500 or the Department of Corrections. The court shall use the comprehensive sex offender presentence evaluation in determining the appropriateness of probation or conditional discharge.
- (4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or conditional discharge, to successfully complete a community-based sexual offender treatment program operated or approved by the Department of Corrections or the Sex Offender Risk Assessment Advisory Board.
- (5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the comprehensive sex offender presentence evaluation or treatment.

- (6) Failure to successfully complete the sexual offender treatment program constitutes grounds for the revocation of probation or conditional discharge.
- (7) The comprehensive sex offender presentence evaluation and all communications relative to the comprehensive sex offender presentence evaluation and treatment of a sexual offender shall fall under the provisions of KRS 197.440. The comprehensive sex offender presentence evaluation shall be filed under seal and shall not be made a part of the court record subject to review in appellate proceedings and shall not be made available to the public.
- (8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any comprehensive sex offender presentence evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel and the Commonwealth's attorney a copy of the comprehensive sex offender presentence evaluation. It shall not be necessary to disclose the sources of confidential information.
- (9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

THE FOLLOWING KRS SECTIONS ARE REPEALED:

529.030 Promoting prostitution in the first degree.

529.050 Promoting prostitution in the third degree.

Senate Bill 59 - Boni Bill

A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

KRS 194A.560 Sections and amendments to be known as "Boni Frederick Bill."

In honor of Boni Frederick who lost her life in the performance of her official duties, KRS 194A.560, 194A.562, 194A.564, 194A.566, and 605.170, and the amendments made to KRS 194A.065 in this Act shall be known as the "Boni Frederick Bill."

KRS 194A.065 is amended to read as follows:

For the purposes of this section, "front-line staff" means an employee of the Division of Service Regions of the Department for Community Based Services or the immediate supervisor of an employee whose professional duties include ongoing adult or child protective services, protective services investigations or assessments, or regularly conducting interviews, visits, contacts, or providing transportation services or other services in the homes of family members involved in adult or child protective services.

- (1) The Cabinet for Health and Family Services, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.
- (2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.
- (3) The Cabinet for Health and Family Services shall provide access to the Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the

Courts to its database.

- (4) The cabinet secretary and the secretary of the Justice Cabinet shall establish communications, policies, and procedures to enable designated cabinet staff of the Department for Community Based Services who are working on a protective services investigation or an ongoing protective services case to request a state criminal background check, and within a reasonable time frame, but no later than one (1) hour after receipt of a request, to have the state criminal background check sent to designated cabinet staff. Designated cabinet staff may request a state criminal background check at any time for a protective services investigation and may use the state criminal background check to assess staff safety concerns.
- (5) The Cabinet for Health and Family Services shall prioritize the safety needs of the front-line staff of the Department for Community Based Services and provide improvements in accordance with this section and KRS 194A.562, 194.564 and KRS 605.170.

A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

KRS 605.170 Reporting of assaults, threats, and menacing conduct against client or staff -- Information system to track threats and violent incidents against staff -- Safety liaisons.

- (1) Each staff member of the department shall report to his or her supervisor any physical or verbal conduct of a client or an individual associated with a client that appears to be threatening or menacing, and any incident of assault, attempted assault, or physical contact that appears to be threatening to any staff member. Any use or threat of use of any type of weapon shall be reported. The supervisor shall report threat or incident information to the commissioner of the department or his or her designee. An employee who reports under this subsection shall be protected from reprisals pursuant to KRS 61.102.
- (2) The department shall establish and maintain an information system and track all reports of threats or incidents involving violence against department staff as required by subsection (1) of this section. The department shall provide, upon request, the number and type of reports received and any information available regarding civil or criminal action or changes to policies and procedures resulting from threats or incidents of violence upon staff.
- (3) The department shall designate or establish a safety liaison position within its central office and in each regional office. The regional administrator may designate or establish a safety liaison position in each county office. The duties of the central office safety liaison shall include but not be limited to:

 - (a) Development and implementation of policies and procedures related to the prevention of violence in the office and in community settings;
 - (b) Screening and assessment of the level of threat for professional-client interactions;
 - (c) Facilitation of safety training and safety and first alert protocols with all law enforcement agencies that work with each county office. Existing multidisciplinary teams may be utilized in the development of local safety protocols; and
 - (d) Administration of a Web-based social worker safety site and a threat and violence incident database.

A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

**KRS 194A.562 Risk Assessments on local offices of Division of Service Regions
- Remediation where staff safety inadequate.**

The cabinet shall conduct risk assessments on all local offices of the Division of Service Regions of the Department for Community Based Services and remediate the office environments that do not provide adequate safety and protection for cabinet staff to the extent possible with consideration of office space lease arrangements and availability of funding for office renovations.

A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

**KRS 194A.564 Study group to make recommendations on personnel
classifications for state agency social workers - Safety training - Report.**

The cabinet secretary shall designate a study group composed of personnel within the Department for Community Based Services' field services staff and any other persons deemed necessary to make recommendations regarding personnel classifications for state agency social workers. The study group shall include in its deliberations, but is not limited to, special personnel designations that would permit or require specialized personal safety training and other requirements that reflect the sometimes dangerous nature of official job duties of state agency social workers. The study group shall report its recommendations by November 15, 2007, to the Governor and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare.

A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

**KRS 194A.566 Risk or safety assessment upon request of front-line staff -
Accompaniment by local law enforcement officer.**

Front-line staff may request a risk or safety assessment prior to an investigation or delivery of services in a community setting. The direct supervisor of the requesting front-line staff and the safety liaison officer if a safety liaison officer position is designated for the county shall conduct the safety or risk assessment. If the situation warrants the accompaniment of front-line staff by a local law enforcement officer, the supervisor shall make the request to the local law enforcement agency.

Senate Bill 65 Sex Offender Registration

KRS 17.500 IS AMENDED TO READ AS FOLLOWS:

As used in KRS 17.500 to 17.580:

- (1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and

- youthful offenders, as defined in KRS 600.020;
- (2) "Cabinet" means the Justice Cabinet;
- (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 3. Sex crime;
 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 5. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 6. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 7. Sexual abuse, as set forth in KRS 510.120 and 510.130;
 8. Unlawful transaction with a minor in the first degree as set forth in KRS 530.064(1)(a);
 9. Any offense involving a minor or depictions of a minor as set forth in KRS Chapter 531;
 10. Any attempt to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph; and
 11. Solicitation to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph;
- (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) "Registrant" means:
- (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
1. A sex crime; or
 2. A criminal offense against a victim who is a minor; or
- (b) Any person required to register under KRS 17.510; or
 - (c) Any sexually violent predator; or
 - (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;

- (6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, electronic mail address and any instant messaging, chat, or other Internet communication name identities, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;
- (7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;
- (8) "Sex crime" means:
 - (a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, or 531.320;
 - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or
 - (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;
- (10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
- (11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554; and
- (12) "Victim" has the same meaning as in KRS 421.500.

SENATE BILL 68 Motor Vehicle Insurance

KRS 304.39-080 IS AMENDED TO READ AS FOLLOWS:

- (1) "Security covering the vehicle" is the insurance or other security so provided. The vehicle for which the security is so provided is the "secured vehicle."
- (2) "Basic reparation insurance" includes a contract, self-insurance, or other legal means under which the obligation to pay basic reparation benefits arises.
- (3) This Commonwealth, its political subdivisions, municipal corporations, and public agencies may continuously provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.
- (4) The United States and its public agencies and any other state, its political subdivisions, municipal corporation, and public agencies may provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.
- (5) Except for entities described in subsections (3) and (4), every owner or operator of a motor vehicle registered in this Commonwealth or operated in this Commonwealth ~~[by him or]~~ with an owner's ~~[his]~~ permission shall continuously provide with respect to the motor vehicle while it is either present or registered in this Commonwealth, and any other person may provide with respect to any motor vehicle, by a contract of insurance or by qualifying as a self-insurer, security for the payment of basic reparation benefits in accordance with this subtitle and security for payment of tort liabilities, arising

from maintenance or use of the motor vehicle. The owner of a motor vehicle who fails to maintain security on a motor vehicle in accordance with this subsection shall have his or her motor vehicle registration revoked in accordance with KRS 186A.040 and shall be subject to the penalties in KRS 304.99-060. An owner who permits another person to operate a motor vehicle without security on the motor vehicle as required by this subtitle shall be subject to the penalties in KRS 304.99-060.

- (6) Security may be provided by a contract of insurance or by qualifying as a self-insurer or obligated government in compliance with this subtitle.
- (7) Self-insurance, subject to approval of the executive director of insurance, is effected by filing with the executive director in satisfactory form:
 - (a) A continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic reparation benefits, or both, and to perform all other obligations imposed by this subtitle;
 - (b) Evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided by this subtitle; and
 - (c) Evidence that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a policy of insurance, complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.
- (8) An entity described in subsection (3) or (4) may provide security by lawfully obligating itself to pay basic reparation benefits in accordance with this subtitle.~~[- and]~~
- (9) A person providing security pursuant to subsection (7) is a "self-insurer." An entity described in subsections (3) or (4) that has provided security pursuant to subsection (6) is an "obligated government."

SENATE BILL 83 Speed Limits

KRS 189.390 IS AMENDED TO READ AS FOLLOWS:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Business district" means the territory contiguous to and including a highway if, within six hundred (600) feet along the highway, there are buildings in use for business or industrial purposes that occupy three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway;
 - (b) "Residential district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred (300) feet or more is improved with residences or residences and buildings in use for business; and
 - (c) "State highway" means a highway or street maintained by the Kentucky Department of Highways.
- (2) An operator of a vehicle upon a highway shall not drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.
- (3) ***The speed limit for motor vehicles on state highways shall be as follows, unless***~~if~~ conditions exist that require lower speed for compliance with subsection (2) of this section, ***or the secretary of the Transportation Cabinet establishes a different speed limit in accordance with subsection (4) of this section***~~the speed of any vehicle in excess of the limits specified in this section shall be unlawful~~:
 - (a) ***Sixty-five (65) miles per hour on interstate highways, and parkways;***
 - (b) ***Fifty-five (55) miles per hour on all other state highways; and***

- ~~(c) Thirty-five (35) miles per hour in a business or residential district~~ ~~For vehicles other than motor vehicles of five (5) horsepower or less, thirty five (35) miles per hour in any business or residential district, except as provided in subsection (5) of this section, and fifty five (55) miles per hour in other locations, except where the speed limit has been posted at sixty five (65) miles per hour;~~
- ~~[(b) For motor vehicles of five (5) horsepower or less, thirty five (35) miles per hour in any location except as provided in subsection (5) of this section;]~~
- ~~[(c) Vehicles using off street parking facilities offered for public use whether publicly or privately owned, fifteen (15) miles per hour].~~
- (4) (a) If the secretary of transportation determines, upon the basis of an engineering and traffic investigation, that any speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, or upon any part of a state highway, the secretary of transportation may establish by official order a reasonable and safe speed limit at the location. The secretary shall not increase any speed limit established by subsection (3) of this section in excess of sixty-five (65) ~~fifty five (55)~~ miles per hour, except that, notwithstanding the provisions of subsection (3)(a) of this section, the secretary may increase the speed limit on any of the following segments of highway to seventy (70) miles per hour:

1. Interstate 24 (entire length);

2. Interstate 64 from Interstate 264 to the West Virginia state line;

3. Interstate 65 from Interstate 264 to the Tennessee state line;

4. Interstate 71 from Interstate 264 to Interstate 275;

5. Interstate 75 from the Tennessee state line to Interstate 275;

6. The Audubon Parkway (entire length);

7. The Julian M. Carroll Purchase Parkway (entire length);

8. The Bert T. Combs Mountain Parkway from Interstate 64 to the beginning of the Mountain Parkway Extension (KY 9009) in Wolfe County;

9. The Edward T. Breathitt Pennyrile Parkway (entire length);

10. The Wendell H. Ford Western Kentucky Parkway (entire length);

11. The Louie B. Nunn Cumberland Parkway (entire length);

12. The Martha Layne Collins Bluegrass Parkway (entire length); and

13. The William H. Natcher Parkway (entire length).

- (b) In a highway work zone, the Transportation Cabinet may temporarily reduce established speed limits without an engineering or traffic investigation. A speed limit established under this paragraph shall become effective when and where posted. The Transportation Cabinet shall

post signs notifying the traveling public of the temporary highway work zone maximum speed limit. Nothing in this paragraph shall be construed to prevent the Transportation Cabinet from using moveable or portable speed limit signs in highway work zones.

- (5) (a) A city or a county may by ordinance establish speed limits within its own jurisdiction, except as provided in paragraph (b) of this subsection.
- (b) The alteration of speed limits on state highways within a city or a county shall not be effective until the alteration has been approved by the secretary of transportation. The secretary shall not approve any alteration that could increase any speed limit established by subsection (3) (b) or (c) of this section in excess of fifty-five (55) miles per hour.
- (c) If a county determines, upon the basis of an engineering and traffic investigation and study, that it is unsafe to park motor vehicles on or along any highway, other than a state highway, within the unincorporated areas of the county, or that in any business district the congestion of traffic justifies a reasonable limitation on the length of time any one (1) motor vehicle is permitted to park in such district so as to reduce the congestion, the fiscal court may by ordinance establish "no parking" areas on the highway, or limit the length of time any motor vehicle may be parked in any business district.
- ~~((d) Notwithstanding the other limitations in this subsection, the secretary of transportation may establish, by official order, reasonable and safe speed limits on interstate highways and divided highways with four (4) or more lanes and fully controlled access, a speed limit not to exceed sixty five (65) miles per hour.)~~
- (6) ***The speed limit for motor vehicles in an off-street parking facility offered for public use, whether publicly or privately owned, shall be fifteen (15) miles per hour.***
- (7) A person shall not drive a motor vehicle at a speed that will impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.
- ~~(8)~~(7) In every charge for a violation of any speed limit specified in this section, the warrant or citation shall specify the speed at which the defendant is alleged to have driven, and the lawful speed limit applicable at the location where the violation is charged to have occurred.

NOTE: This change serves only to permit the Secretary of Transportation to increase the speed limits on designated roadways, it does not automatically increase the speed limit on those roadways.

KRS 189.340 IS AMENDED TO READ AS FOLLOWS:

- (1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. Vehicles overtaking streetcars may pass either to the right or left when so directed by a police officer, when on a one (1) way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.
- (2) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - (a) When the vehicle overtaken is making or about to make a left turn;
 - (b) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
- (3) The operator of a vehicle may overtake and pass another vehicle upon the right only under

- conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a complete stop and such movement may be made safely.
- (4) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within two hundred (200) feet of any vehicle approaching from the opposite direction.
 - (5) The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
 - (6) Whenever any roadway has been divided into three (3) clearly marked lanes for travel, the following additional rules shall apply:
 - (a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;
 - (b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation; and
 - (c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directions of such signs.
 - (7) A vehicle shall not be driven in the left lane of any limited access highway of four (4) lanes or more with a posted speed limit of at least sixty-five (65) miles per hour, except in overtaking a slower vehicle, yielding to traffic coming onto such a highway or when traffic conditions exist which would prohibit safe use of the right or center lanes.
 - (8)
 - (a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.
 - (b) The operator of any motor truck, semitrailer truck, bus, or heavy construction equipment unit, when traveling upon a highway outside of a business or residential district, shall not follow within two hundred fifty (250) feet of another such vehicle or equipment unit. This subsection shall not prevent overtaking and passing, nor shall it apply to any lane specially designated for use of motor trucks or semitrailer trucks, buses or heavy construction equipment units.

Senate Bill 88 – Controlled Substances

KRS 218A.010 IS AMENDED TO READ AS FOLLOWS:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or
 - (b) The patient or research subject at the direction and in the presence of the practitioner.
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.
- (3) "Cabinet" means the Cabinet for Health and Family Services.
- (4) "Child" means any person under the age of majority as specified in KRS 2.015.
- (5) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.
- (6) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:
 1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (b) Such term does not include:
 1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.
- (7) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
- (8) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
- (9) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.
- (10) "Distribute" means to deliver other than by administering or dispensing a controlled substance.
- (11) "Drug" means:
 - (a) Substances recognized as drugs in the official United States Pharmacopoeia, official

Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

- (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
- (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
- (d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.

- (12) **"Good faith prior examination" as used in KRS Chapter 218A and for criminal prosecution only means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations authorized under KRS 11.550 or any other substantially similar program instituted pursuant to KRS 11.550. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B.**

- (13) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:

- (a) Poses an explosion hazard;
- (b) Poses a fire hazard; or
- (c) Is poisonous or injurious if handled, swallowed, or inhaled.

- ~~(14)~~(13) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture.

- ~~(15)~~(14) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine.

- ~~(16)~~(15) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.

- ~~(17)~~(16) "Manufacture", except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

- (a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or
- (b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
- (c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

- ~~(18)~~~~(17)~~ "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.
- ~~(19)~~ *"Medical history" as used in KRS Chapter 218A and for criminal prosecution only means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background.*
- ~~(20)~~ *"Medical order" as used in KRS Chapter 218A and for criminal prosecution only means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order.*
- ~~(21)~~ *"Medical record" as used in KRS Chapter 218A and for criminal prosecution only means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship.*
- ~~(22)~~~~(18)~~ "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers.
- ~~(23)~~~~(19)~~ "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
 - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.
- ~~(24)~~~~(20)~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.
- ~~(25)~~~~(21)~~ "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.
- ~~(26)~~~~(22)~~ "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
- ~~(27)~~~~(23)~~ "Physical injury" has the same meaning it has in KRS 500.080.
- ~~(28)~~~~(24)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- ~~(29)~~~~(25)~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.
- ~~(30)~~~~(26)~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced registered nurse practitioner as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes

a physician, dentist, podiatrist, veterinarian, or advanced registered nurse practitioner authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail.

(31) "Practitioner-patient relationship" as used in KRS Chapter 218A and for criminal prosecution only means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his designee has conducted at least one (1) good faith prior examination.

(32)(27) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced registered nurse practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(33)(28) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.

(34)(29) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(35)(30) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.

(36)(31) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(37)(32) "Serious physical injury" has the same meaning it has in KRS 500.080.

(38) "Telehealth" has the same meaning it has in KRS 311.550.

(39)(33) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(40)(34) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.

(41)(35) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(42)(36) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

KRS 218A.140 is amended to read as follows:

- (1)
 - (a) No person shall obtain or attempt to obtain a prescription for a controlled substance by knowingly misrepresenting to, or knowingly withholding information from, a practitioner.
 - (b) No person shall procure or attempt to procure the administration of a controlled substance by knowingly misrepresenting to, or withholding information from, a practitioner.
 - (c) No person shall obtain or attempt to obtain a controlled substance or procure or attempt to procure the administration of a controlled substance by the use of a false name or the giving of a false address.
 - (d) No person shall knowingly make a false statement regarding any prescription, order, report, or record required by this chapter.
 - (e) No person shall, for the purpose of obtaining a controlled substance, falsely assume the title of or represent himself to be a manufacturer, wholesaler, distributor, repacker, pharmacist, practitioner, or other authorized person.
 - (f) In order to obtain a controlled substance, no person shall present a prescription for a controlled substance that was obtained in violation of this chapter.
 - (g) No person shall affix any false or forged label to a package or receptacle containing any controlled substance.
- (2) No person shall possess, manufacture, sell, dispense, prescribe, distribute, or administer any counterfeit substance.
- (3) **No person shall knowingly obtain or attempt to obtain a prescription for a controlled substance without having formed a valid practitioner-patient relationship with the practitioner or his or her designee from whom the person seeks to obtain the prescription.**
- (4) **No person shall knowingly assist a person in obtaining or attempting to obtain a prescription in violation of this chapter.**
- (5) Any person who violates any subsection of this section shall be guilty of a Class D felony for a first offense and a Class C felony for subsequent offenses.

Section 1. KRS 218A.1402 is amended to read as follows:

Any person who commits a criminal conspiracy as defined in KRS 506.040 to **commit any offense in this chapter** ~~traffic in a controlled substance or a controlled substance analogue~~ shall be subject to the same penalties **as provided for the underlying offense** ~~[for trafficking in that controlled substance or a controlled substance analogue]~~ as specified in this chapter.

KRS 218A.202 IS AMENDED TO READ AS FOLLOWS:

- (1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy.
- (2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.
- (3) Every dispenser within the Commonwealth or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy shall report to the Cabinet for Health and Family Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:

- (a) A drug administered directly to a patient; or
- (b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.
- (4) Data for each controlled substance that is dispensed shall include but not be limited to the following:
 - (a) Patient identifier;
 - (b) Drug dispensed;
 - (c) Date of dispensing;
 - (d) Quantity dispensed;
 - (e) Prescriber; and
 - (f) Dispenser.
- (5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.
- (6) The Cabinet for Health and Family Services shall only disclose data to persons and entities authorized to receive that data under this section. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The Cabinet for Health and Family Services shall be authorized to provide data to:
 - (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
 - (b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;
 - (c) A state-operated Medicaid program;
 - (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;
 - (e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;
 - (f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing practices;
 - 2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or
 - 3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area;
 - (g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced registered nurse practitioner who is:

1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing practices;
 2. Associated in a partnership or other business entity with an advanced registered nurse practitioner who is already under investigation by the Board of Nursing for improper prescribing practices;
 3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or
 4. In a designated geographic area for which a report on a physician or another advanced registered nurse practitioner in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or
- (h) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.
- (7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care physician.
- (8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction **and only to a person or entity authorized to receive the data or the report under this section**, except that:
- (a) A peace officer specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with other peace officers specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and
 - (b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section; and
 - (c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.
- (10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (11) **Intentional** ~~Knowing~~ failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor **for the first offense and a Class D felony for each subsequent offense**.

- (12) ~~Intentional~~^{Knowing} disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (13) The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:
- (a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and
 - (b) Study the use of an interactive system that includes a relational data base with query capability.
- (14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.
- (15) The Cabinet for Health and Family Services may limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.
- (16) (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.
- (b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.
- (c) The cabinet shall work with the Justice Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

KRS 218A.320 Criminal possession of a medical record - Penalties

- (1) A person is guilty of criminal possession of a medical record when he or she possesses a medical record with the intent to unlawfully obtain a controlled substance by:
- (a) Falsifying, altering, or creating a medical record; or
 - (b) Selling or unlawfully transferring the medical record to another person.
- (2) Any person who violates any subsection of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

KRS 218.322 Theft of a medical record - Penalties

- (1) A person is guilty of theft of a medical record when he or she unlawfully takes or exercises

- control over a medical record belonging to another person with intent to violate this chapter.
- (2) Any person who violates any subsection of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

KRS 218A.324 Criminal falsification of a medical record - Penalties

- (1) A person is guilty of criminal falsification of a medical record when he or she knowingly and unlawfully falsifies, alters, or creates a medical record for the purpose of obtaining or attempting to obtain a controlled substance with intent to violate this chapter.
- (2) Any person who violates any subsection of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

KRS 315.010 IS AMENDED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

- (1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, or ingestion, whether topically or by any other means;
- (2) "Association" means the Kentucky Pharmacists Association;
- (3) "Board" means the Kentucky Board of Pharmacy;
- (4) "Collaborative care agreement" means a written agreement between a specifically identified individual practitioner and a pharmacist who is specifically identified, whereby the practitioner outlines a plan of cooperative management of a specifically identified individual patient's drug-related health care needs that fall within the practitioner's statutory scope of practice. The agreement shall be limited to specification of the drug-related regimen to be provided and any tests which may be necessarily incident to its provisions; stipulated conditions for initiating, continuing, or discontinuing drug therapy; directions concerning the monitoring of drug therapy and stipulated conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration;
- (5) "Compound" or "compounding" means the preparation or labeling of a drug pursuant to or in anticipation of a valid prescription drug order including, but not limited to, packaging, intravenous admixture or manual combination of drug ingredients. Compounding, as used in this chapter, shall not preclude simple reconstitution, mixing, or modification of drug products prior to administration by nonpharmacists;
- (6) "Confidential information" means information which is accessed or maintained by a pharmacist in a patient's record, or communicated to a patient as part of patient counseling, whether it is preserved on paper, microfilm, magnetic media, electronic media, or any other form;
- (7) "Continuing education unit" means ten (10) contact hours of board approved continuing pharmacy education. A "contact hour" means fifty (50) continuous minutes without a break period;
- (8) "Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;
- (9) "Drug" means any of the following:
 - (a) Articles recognized as drugs or drug products in any official compendium or supplement thereto; or
 - (b) Articles, other than food, intended to affect the structure or function of the body of man or other

- animals; or
 - (c) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or
 - (d) Articles intended for use as a component of any articles specified in paragraphs (a) to (c) of this subsection;
- (10) "Drug regimen review" means retrospective, concurrent, and prospective review by a pharmacist of a patient's drug-related history, including but not limited to, the following areas:
- (a) Evaluation of prescription drug orders and patient records for:
 1. Known allergies;
 2. Rational therapy contraindications;
 3. Appropriate dose and route of administration;
 4. Appropriate directions for use; or
 5. Duplicative therapies.
 - (b) Evaluation of prescription drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions;
 - (c) Evaluation of prescription drug orders and patient records for adverse drug reactions; or
 - (d) Evaluation of prescription drug orders and patient records for proper utilization and optimal therapeutic outcomes;
- (11) "Immediate supervision" means under the physical and visual supervision of a pharmacist;
- ~~[(12) "Incidental" as used in KRS 315.0351(1) means dispensing fewer than twenty five (25) prescriptions in a calendar month;]~~
- ~~(12)~~~~(13)~~ "Manufacturer" means any person, except a pharmacist compounding in the normal course of professional practice, within the Commonwealth engaged in the commercial production, preparation, propagation, compounding, conversion or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container;
- ~~(13)~~~~(14)~~ "Medical order" means a lawful order of a specifically-identified practitioner for a specifically-identified patient for the patient's health care needs. "Medical order" may or may not include a prescription drug order;
- ~~(14)~~~~(15)~~ "Nonprescription drugs" means nonnarcotic medicines or drugs which may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government;
- ~~(15)~~~~(16)~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- ~~(16)~~~~(17)~~ "Pharmacist intern" means a natural person who is:
- (a) Currently certified by the board to engage in the practice of pharmacy under the direction of a licensed pharmacist and who satisfactorily progresses toward meeting the requirements for licensure as a pharmacist;
 - (b) A graduate of an approved college or school of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee (FPGEC) certificate, who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;

- (c) A qualified applicant awaiting examination for licensure as a pharmacist or the results of an examination for licensure as a pharmacist; or
- (d) An individual participating in a residency or fellowship program approved by the board for internship credit;
- ~~(17)~~~~(18)~~ "Pharmacy" means every place where:
 - (a) Drugs are dispensed under the direction of a pharmacist;
 - (b) Prescription drug orders are compounded under the direction of a pharmacist; or
 - (c) A registered pharmacist maintains patient records and other information for the purpose of engaging in the practice of pharmacy, whether or not prescription drug orders are being dispensed;
- ~~(18)~~~~(19)~~ "Pharmacy technician" means a natural person who works under the immediate supervision, or general supervision if otherwise provided for by statute or administrative regulation, of a pharmacist for the purpose of assisting a pharmacist with the practice of pharmacy;
- ~~(19)~~~~(20)~~ "Practice of pharmacy" means interpretation, evaluation, and implementation of medical orders and prescription drug orders; responsibility for dispensing prescription drug orders, including radioactive substances; participation in drug and drug-related device selection; administration of medications or biologics in the course of dispensing or maintaining a prescription drug order; the administration of adult immunizations pursuant to prescriber-approved protocols; drug evaluation, utilization, or regimen review; maintenance of patient pharmacy records; and provision of patient counseling and those professional acts, professional decisions, or professional services necessary to maintain and manage all areas of a patient's pharmacy-related care, including pharmacy-related primary care as defined in this section;
- ~~(20)~~~~(21)~~ "Practitioner" has the same meaning given in KRS 217.015(35);
- ~~(21)~~~~(22)~~ "Prescription drug" means a drug which:
 - (a) Under federal law is required to be labeled with either of the following statements:
 - 1. "Caution: Federal law prohibits dispensing without prescription"; or
 - 2. "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or
 - 3. "Rx Only"; or
 - 4. "Rx"; or
 - (b) Is required by any applicable federal or state law or administrative regulation to be dispensed only pursuant to a prescription drug order or is restricted to use by practitioners;
- ~~(22)~~~~(23)~~ "Prescription drug order" means an original or new order from a practitioner for drugs, drug-related devices or treatment for a human or animal, including orders issued through collaborative care agreements. Lawful prescriptions result from a valid practitioner-patient relationship, are intended to address a legitimate medical need, and fall within the prescribing practitioner's scope of professional practice;
- ~~(23)~~~~(24)~~ "Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries as well as those other activities falling within their statutory scope of practice;
- ~~(24)~~~~(25)~~ "Society" means the Kentucky Society of Health-Systems Pharmacists;
- ~~(25)~~~~(26)~~ "Supervision" means the presence of a pharmacist on the premises to which a pharmacy

permit is issued, who is responsible, in whole or in part, for the professional activities occurring in the pharmacy; and

~~(26)~~~~(27)~~ "Wholesaler" means any person who legally buys drugs for resale or distribution to persons other than patients or consumers.

KRS 315.035 IS AMENDED TO READ AS FOLLOWS:

- (1) No person shall operate a pharmacy within this Commonwealth, physically or by means of the Internet, facsimile, phone, mail, or any other means, without having first obtained a permit as provided for in KRS Chapter 315. An application for a permit to operate a pharmacy shall be made to the board upon forms provided by it and shall contain such information as the board requires, which may include affirmative evidence of ability to comply with such reasonable standards and rules and regulations as may be prescribed by the board. Each application shall be accompanied by a reasonable permit fee to be set by administrative regulation promulgated by the board pursuant to KRS Chapter 13A, not to exceed two hundred fifty dollars (\$250).
- (2) Upon receipt of an application of a permit to operate a pharmacy, accompanied by the permit fee not to exceed two hundred fifty dollars (\$250), the board shall issue a permit if the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall refuse to renew any permit to operate unless the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall act upon an application for a permit to operate within thirty (30) days after the receipt thereof; provided, however, that the board may issue a temporary permit to operate in any instance where it considers additional time necessary for investigation and consideration before taking final action upon the application. In such event, the temporary permit shall be valid for a period of thirty (30) days, unless extended.
- (3) A separate permit to operate shall be required for each pharmacy.
- (4) Each permit to operate a pharmacy, unless sooner suspended or revoked, shall expire on June 30 following its date of issuance and be renewable annually thereafter upon proper application accompanied by such reasonable renewal fee as may be set by administrative regulation of the board, not to exceed two hundred fifty dollars (\$250) nor to increase more than twenty-five dollars (\$25) per year. An additional fee not to exceed the annual renewal fee may be assessed and set by administrative regulation as a delinquent renewal penalty for failure to renew by June 30 of each year.
- (5) Permits to operate shall be issued only for the premises and persons named in the application and shall not be transferable; provided however, that a buyer may operate the pharmacy under the permit of the seller pending a decision by the board of an application which shall be filed by the buyer with the board at least five (5) days prior to the date of sale.
- (6) The board may promulgate rules and regulations to assure that proper equipment and reference material is on hand considering the nature of the pharmaceutical practice conducted at the particular pharmacy and to assure reasonable health and sanitation standards for areas within pharmacies which are not subject to health and sanitation standards promulgated by the Kentucky Cabinet for Health and Family Services or a local health department.
- (7) Each pharmacy shall comply with KRS 218A.202.
- (8) Any pharmacy within the Commonwealth that dispenses more than twenty-five percent (25%) of its total prescription volume as a result of an original prescription order received or solicited~~(doing business primarily or exclusively)~~ by use of the Internet, including but not limited to

electronic mail, shall, prior to obtaining a permit, receive and display in every medium in which it advertises itself a seal of approval for the National Association of Boards of Pharmacy certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS) or a seal certifying approval of a substantially similar program approved by the Kentucky Board of Pharmacy. VIPPS, or any other substantially similar program approved by the Kentucky Board of Pharmacy, accreditation [certification] shall be maintained and remain current.

- (9) Any pharmacy within the Commonwealth doing business ~~[primarily or exclusively]~~ by use of the Internet shall certify the percentage of its annual business conducted via the Internet and submit such supporting documentation as requested by the board, and in a form or application required by the board, when it applies for permit or renewal.

KRS 315.0351 IS AMENDED TO READ AS FOLLOWS:

- (1) Every person or pharmacy located outside this Commonwealth which ~~[other than on an incidental basis,]~~ does business, physically or by means of the Internet, facsimile, phone, mail, or any other means, inside this Commonwealth within the meaning of KRS Chapter 315, shall hold a current pharmacy permit as provided in KRS 315.035(1) and (4) issued by the Kentucky Board of Pharmacy. The pharmacy shall be designated an "out-of-state pharmacy" and the permit shall be designated an "out-of-state pharmacy permit." The fee for the permit shall not exceed the current in-state pharmacy permit fee as provided under KRS 315.035.
- (2) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall disclose to the board the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs to residents of the Commonwealth. A report containing this information shall be made to the board on an annual basis and within thirty (30) days after any change of office, corporate officer, or pharmacist.
- (3) Every out-of-state pharmacy granted an out-of-state pharmacy permit shall comply with all statutorily-authorized directions and requests for information from any regulatory agency of the Commonwealth and from the board in accordance with the provisions of this section. The out-of-state pharmacy shall maintain at all times a valid unexpired permit, license, or registration to conduct the pharmacy in compliance with the laws of the jurisdiction in which it is a resident. As a prerequisite to seeking a permit from the Kentucky Board of Pharmacy, the out-of-state pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the jurisdiction in which it is located. Thereafter, the out-of-state pharmacy granted a permit shall submit to the Kentucky Board of Pharmacy a copy of any subsequent inspection report on the pharmacy conducted by the regulatory or licensing body of the jurisdiction in which it is located.
- (4) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall maintain records of any controlled substances or dangerous drugs or devices dispensed to patients in the Commonwealth so that the records are readily retrievable from the records of other drugs dispensed.
- (5) Records for all prescriptions delivered into Kentucky shall be readily retrievable from the other prescription records of the out-of-state pharmacy.
- (6) Each out-of-state pharmacy shall, during its regular hours of operation, but not less than six (6) days per week and for a minimum of forty (40) hours per week, provide a toll-free telephone service directly to the pharmacist in charge of the out-of-state pharmacy and available to both the patient and each licensed and practicing in-state pharmacist for the purpose of facilitating communication between the patient and the Kentucky pharmacist with access to the patient's prescription records. A

toll-free number shall be placed on a label affixed to each container of drugs dispensed to patients within the Commonwealth.

- (7) Each out-of-state pharmacy shall have a pharmacist in charge who is licensed to engage in the practice of pharmacy by the Commonwealth that shall be responsible for compliance by the pharmacy with the provisions of this section.
- (8) Each out-of-state pharmacy shall comply with KRS 218A.202.
- (9) Any out-of-state pharmacy that dispenses more than twenty-five percent (25%) of its total prescription volume as a result of an original prescription order received or solicited~~doing business, primarily or exclusively,~~ by use of the Internet, including but not limited to electronic mail, shall, ~~prior to obtaining a permit,~~ receive and display in every medium in which it advertises itself a seal of approval for the National Association of Boards of Pharmacy certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS) or a seal certifying approval of a substantially similar program approved by the Kentucky Board of Pharmacy. VIPPS, or any other substantially similar accreditation,~~certification,~~ shall be maintained and remain current.
- (10) Any out-of-state pharmacy doing business in the Commonwealth of Kentucky~~primarily or exclusively by use of the Internet,~~ shall certify the percentage of its annual business conducted via the Internet and electronic mail and submit such supporting documentation as requested by the board, and in a form or application required by the board, when it applies for permit or renewal.
- (11) Any pharmacy doing business within the Commonwealth of Kentucky shall use the address on file with the Kentucky Board of Pharmacy as the return address on the labels of any package shipped into or within the Commonwealth. The return address shall be placed on the package in a clear and prominent manner.
- (12) The Kentucky Board of Pharmacy may waive the permit requirements of this chapter for an out-of-state pharmacy that only does business within the Commonwealth of Kentucky in limited transactions.

KRS 315.320 IS AMENDED TO READ AS FOLLOWS:

- (1) A person or pharmacy is guilty of a Class C felony if the person or pharmacy, located inside or outside this Commonwealth, is not licensed by the Commonwealth of Kentucky to engage in the practice of pharmacy and knowingly:
 - (a) Communicates~~Uses or attempts to use the Internet, in whole or in part, to communicate,~~ with a~~or obtain information from another~~ person in this Commonwealth; and
 - (b) Uses or attempts to use such communication or information, in whole, or in part, to:
 1. Fill or refill a prescription for a prescription drug for the other person; or
 2. Deliver, cause, allow, or aid in the delivery of a controlled substance, imitation controlled substance, counterfeit substance or prescription drug to the other person.
- (2) A person or pharmacy is guilty of a Class B felony if the substance or drug dispensed in subsection (1) of this section:
 - (a) Is classified in Schedule I; or
 - (b) Proximately causes serious physical injury or the death of the intended recipient of the substance or drug or any other person.
- (3) The court shall not grant probation to or suspend the sentence of a person punished pursuant to subsection (2) of this section.

- (4) A person who knowingly aids another in any act or transaction that violates the provisions of subsection (1) of this section is guilty of a Class C felony.
- (5) A person who knowingly aids another in any act or transaction that violates the provisions of subsection (2) of this section is guilty of a Class B felony.
- (6) A person or pharmacy may be prosecuted, convicted, and punished for a violation of this section whether or not the person is prosecuted, convicted, or punished for a violation of any other statute based upon the same act or transaction.
- (7) This section shall not apply to a licensed pharmacist or permitted pharmacy that inadvertently allows its license or permit issued by the Kentucky Board of Pharmacy, ~~issued by a board of pharmacy~~, to lapse for a period of less than thirty (30) days.
- (8) This section shall not apply to authorized agents of a pharmacy with a valid permit issued by the Kentucky Board of Pharmacy.
- (9) This section shall not apply to an authorized agent of a pharmacy that inadvertently allows its permit issued by the Kentucky Board of Pharmacy, to lapse for a period of less than thirty (30) days.
- (10) Unless a more specific penalty applies within this chapter, anyone who uses the Internet to communicate and facilitate the sale of controlled substances, except as specifically provided for in this chapter, may be prosecuted under KRS Chapter 218A.

KRS 218A.1446 IS AMENDED TO READ AS FOLLOWS:

- (1) Any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall be dispensed, sold, or distributed only by a registered pharmacist, a pharmacy intern, or a pharmacy technician.
- (2) Any person purchasing, receiving, or otherwise acquiring any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall:
 - (a) Produce a government issued photo identification showing the date of birth of the person; and
 - (b) Sign a written log or record showing the:
 1. Date of the transaction;
 2. Name, date of birth, and address of the person making the purchase; and
 3. The amount and name of the compound, mixture, or preparation.

An electronic recordkeeping mechanism may be used in lieu of the written log or record described in paragraph (b) of this subsection, provided the mechanism is approved by the Office of Drug Control Policy.
- (3) A log, as described in subsection (2) of this section, shall be kept of each day's transactions. The registered pharmacist, a pharmacy intern, or a pharmacy technician shall initial the entry of each sale in the log, evidencing completion of each transaction. The log shall be:
 - (a) Kept for a period of two (2) years;~~and~~
 - (b) Subject to random and warrantless inspection by city, county, or state law enforcement officers; and
 - (c) An electronic recordkeeping mechanism may be required in lieu of the written log or record described in subsection (2)(b) of this section if the costs of establishing and

maintaining the mechanism are borne by the Commonwealth of Kentucky. Pursuant to administrative regulations promulgated by the Drug Enforcement and Professional Standards Branch and the Office of Drug Control Policy, pharmacies requesting an exemption to electronic reporting may file an exemption request to the above listed agencies. Any exemption may be granted upon a showing of imposition of additional cost by the pharmacy.

- (4)
 - (a) Intentional failure of a registered pharmacist, a pharmacy intern, or a pharmacy technician to make an accurate entry of a sale of a product or failure to maintain the log records as required by this section may subject him or her to a fine of not more than one thousand dollars (\$1,000) for each violation and may be evidence of a violation of KRS 218A.1438.
 - (b) If evidence exists that the pharmacist's, the pharmacy intern's, or the pharmacist technician's employer fails, neglects, or encourages incorrect entry of information by improper training, lack of supervision or oversight of the maintenance of logs, or other action or inaction, the employer shall also face liability under this section and any other applicable section of this chapter.
 - (c) It shall be a defense to a violation of this section that the person proves that circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician delayed or prevented the making of the record or retention of the record as required by this section. Examples of circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician include but are not limited to:
 - 1. Fire, natural or manmade disaster, loss of power, and similar events;
 - 2. Robbery, burglary, shoplifting, or other criminal act by a person on the premises;
 - 3. A medical emergency suffered by the registered pharmacist, pharmacy intern, or pharmacy technician, another employee of the establishment, a customer, or any other person on the premises; or
 - 4. Some other circumstance that establishes that an omission was inadvertent.
- (5) No person shall purchase, receive, or otherwise acquire any product, mixture, or preparation or combinations of products, mixtures, or preparations containing more than nine (9) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers within any thirty (30) day period provided this limit shall not apply to any quantity of product, mixture or preparation dispensed pursuant to a valid prescription. In addition to the nine (9) gram restriction, no person shall purchase, receive, or otherwise acquire more than three (3) packages of any product, mixture, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers during each transaction.
- (6) A person under eighteen (18) years of age shall not purchase or attempt to purchase any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section. No person shall aid or assist a person under eighteen (18) years of age in purchasing any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section.
- (7) The requirements of this section shall not apply to any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers which are in liquid, liquid capsule, or gel capsule form or to any compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their

salts or optical isomers which are deemed to be not subject to abuse upon joint review and agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the Cabinet for Health and Family Services.

- (8) The provisions of this section shall not apply to a:
- (a) Licensed manufacturer manufacturing and lawfully distributing a product in the channels of commerce;
 - (b) Wholesaler lawfully distributing a product in the channels of commerce;
 - (c) A pharmacy with a valid permit from the Kentucky Board of Pharmacy ~~[Licensed pharmacy]~~;
 - (d) Health care facility licensed pursuant to KRS Chapter 216B;
 - (e) Licensed long-term care facility;
 - (f) Government-operated health department;
 - (g) Physician's office;
 - (h) Publicly operated prison, jail, or juvenile correctional facility, or a private adult or juvenile correctional facility under contract with the Commonwealth;
 - (i) Public or private educational institution maintaining a health care program; or
 - (j) Government-operated or industrial medical facility serving its own employees.
- (9) The provisions of this section shall supersede and preempt all local laws, ordinances, and regulations pertaining to the sale of any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.

KRS 218A.420 IS AMENDED TO READ AS FOLLOWS:

- (1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.
- (2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for Health and Family Services by promulgated regulations. Property other than controlled substances may be destroyed on order of the trial court.
- (3) When property other than controlled substances is forfeited under this chapter and not retained for official use, it may be sold for its cash value ~~[, the law enforcement agency may, subject to the provisions of KRS 218A.435:~~
- ~~(a) Retain it for official use;~~
 - ~~(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be paid into the fund created in KRS 218A.435]. Any sale shall be a public sale advertised pursuant to KRS Chapter 424.~~
- (4) Coin, currency, or the proceeds from the sale of property forfeited shall be distributed as follows:
- (a) Eighty-five percent (85%) shall be paid to the law enforcement agency or agencies which seized the property, to be used for direct law enforcement purposes; and
 - (b) Fifteen percent (15%) shall be paid to the Office of the Attorney General, or in the alternative, the fifteen percent (15%) shall be paid to the Prosecutors Advisory Council for deposit on behalf of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding, as determined by the court pursuant to subsection (9) of this section. Notwithstanding KRS Chapter 48, these funds shall be

- The moneys identified in this subsection are intended to supplement any funds otherwise appropriated to the recipient and shall not supplant other funding of any recipient.
- (5) The Attorney General, after consultation with the Prosecutors Advisory Council, shall promulgate administrative regulations to establish the specific purposes for which these funds shall be expended.
- (6) Each state and local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving any forfeited property, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.
- (7) Each state or local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving forfeited property, have one (1) or more officers currently employed attend asset-forfeiture training approved by the Kentucky Law Enforcement Council, which shall approve a curriculum of study for asset-forfeiture training.
- (8) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.
- (9) When money or property is seized in a joint operation involving more than one (1) law enforcement agency or prosecutorial office, the apportionment of funds to each pursuant to subsection (4) of this section shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

KRS 218A.240 IS AMENDED TO READ AS FOLLOWS:

- (1) All police officers and deputy sheriffs directly employed full-time by state, county, city, ~~or~~ urban-county, or consolidated local governments, the State Police, the Cabinet for Health and Family Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.
- (2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for Health and Family Services shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the

- purpose of obtaining evidence and to use data obtained under KRS 218A.202(7) in any administrative proceeding before the cabinet.
- (3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the Cabinet for Health and Family Services.
 - (4) Designated agents of the Cabinet for Health and Family Services and the Kentucky Board of Pharmacy are empowered to remove from the files of a pharmacy or the custodian of records for that pharmacy any controlled substance prescription or other controlled substance record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record. A receipt for the record shall be a defense to a charge of failure to maintain the record.
 - (5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter, or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.
 - (a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.
 - (b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.
 - (c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his or her costs, including a reasonable attorney's fee.
 - (d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.420 [~~KRS 218A.435~~], except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his or her percentage of the funds shall go to the agency initiating the forfeiture action.
 - (6) The Cabinet for Health and Family Services shall make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether any provision has been violated.
 - (7)
 - (a) The Cabinet for Health and Family Services shall use the data compiled in the electronic system created in KRS 218A.202 for investigations, research, statistical analysis, and educational purposes, and shall proactively identify trends in controlled substance usage and other potential problem areas. Only cabinet personnel who have undergone training for the electronic system and who have been approved to use the system shall be authorized access to the data and reports under this subsection. The cabinet shall notify a board responsible for the licensure, regulation, or discipline of each practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances, if a report or analysis conducted under this subsection indicates that further investigation about inappropriate or unlawful prescribing or dispensing may be necessary by the board.
 - (b) The cabinet shall develop criteria, in collaboration with the Board of Medical Licensure and the Board of Pharmacy, to be used to generate trend reports from the data obtained by the system. Meetings at which the criteria are developed shall be meetings, as defined in KRS 61.805, that comply with the open meetings laws, KRS 61.805 to 61.850.
 - (c) The cabinet shall, on a quarterly basis, publish trend reports from the data obtained by the system.
 - (d) Peace officers authorized to receive data under KRS 218A.202 may request trend reports not specifically published pursuant to paragraph (c) of this subsection. A report under this

paragraph may be based upon the criteria developed under paragraph (b) of this subsection or upon any of the data collected pursuant to KRS 218A.202(4), except that the report shall not identify an individual prescriber, dispenser, or patient.

- (e) No trend report generated under this subsection shall identify an individual prescriber, dispenser, or patient.

KRS 218A.440 IS AMENDED TO READ AS FOLLOWS:

- (1) Each law enforcement agency seizing money or property pursuant to KRS 218A.415 shall, at the close of each fiscal year, file a statement with the Auditor of Public Accounts, and with the secretary of justice containing, a detailed listing of all money and property seized in that fiscal year and the disposition thereof. The listing shall identify all property so seized.
- (2) Any agency failing to report as required by this section shall be liable to the state for the full value of all property and money so seized. The Attorney General shall institute civil actions for recovery of money or property obtained or retained in violation of KRS 218A.405 to 218A.460.
- (3) The Auditor of Public Accounts, the secretary of justice or the Attorney General may at any time initiate an inquiry to determine that ~~any agency is utilizing proceeds from the fund established in KRS 218A.435 in accordance with law, or an inquiry to determine that~~ property is being forfeited as required by KRS 218A.405 to 218A.460.

KRS 218A.460 IS AMENDED TO READ AS FOLLOWS:

- (1) Jurisdiction in all forfeiture proceedings shall vest in the court where the conviction occurred regardless of the value of property subject to forfeiture.
- (2) Following conviction of a defendant for any violation of this chapter, the court shall conduct an ancillary hearing to forfeit property if requested by any party other than the defendant or Commonwealth. The Commonwealth's attorney, or county attorney if the proceeding is in District Court, shall initiate the hearing by filing a motion requesting entry of a final order of forfeiture upon proof that the property was being used in violation of the provisions of this chapter. The final order of forfeiture by the court shall perfect in the Commonwealth or appropriate law enforcement agency, as provided in KRS 218A.420 ~~[KRS 218A.435]~~, right, title, and interest in and to the property. The Commonwealth may transfer any real property so forfeited by deed of general warranty.
- (3) If the property subject to forfeiture is of a type for which title or registration is required by law, or if the owner of the property is known in fact to the Commonwealth at the time of the hearing, or if the property is subject to a perfected security interest in accordance with the Uniform Commercial Code, KRS Chapter 355, the attorney representing the Commonwealth shall give notice of the ancillary hearing by registered mail, return receipt requested, to each person having such interest in the property, and shall publish notice of the forfeiture once each week for two (2) consecutive weeks in a newspaper of general circulation as defined in KRS Chapter 424 in the county where the forfeiture proceedings will occur. The notice shall be mailed and first published at least four (4) weeks prior to the ancillary hearing and shall describe the property; state the county, place, and date of seizure; state the name of the law enforcement agency holding the seized property; and state the name of the court in which the ancillary hearing will be held and the date of the hearing. However, the Commonwealth shall be obligated only to make a diligent search and inquiry as to the owner of subject property; and if, after diligent search and inquiry, the Commonwealth is unable to ascertain the owner, the actual notice requirements by mail shall not be applicable.

- (4) Unless otherwise expressly provided in KRS 218A.410, the burden shall be upon claimant to property to prove by preponderance of the evidence that it is not subject to forfeiture. Any claimant other than a person who holds title or registration to the property or who has a perfected security interest in the property shall be required to post a bond equivalent to ten percent (10%) of the appraised value of the property with the clerk of the court before being allowed to litigate the claim. The bond shall offset the costs of litigation incurred by the Commonwealth. A claimant may proceed in forma pauperis with leave of court upon sworn petition subject to the applicable rules and subject to the provisions of law concerning perjury.
- (5) The procedures for forfeiture proceedings as established in KRS 218A.405 to 218A.460 shall apply to any property subject to forfeiture which is pending as of July 13, 1990.

THE FOLLOWING KRS SECTION IS REPEALED:

218A.435 Asset forfeiture trust fund -- Management -- Distribution.

SENATE BILL 104 Crisis Intervention Team Training

KRS 210.365 IS AMENDED TO READ AS FOLLOWS:

- (1) As used in this section:
 - (a) "Crisis intervention team" (CIT) training means a forty (40) hour training curriculum based on the Memphis Police Department Crisis Intervention Team model of best practices for law enforcement intervention with persons who may have a mental illness, substance abuse disorder, mental retardation, developmental disability, or dual diagnosis that meets the requirement of subsections (2) to (5) of this section and is approved by the Kentucky Law Enforcement Council;
 - (b) "Department" means the Department for Mental Health and Mental Retardation Services;
 - (c) "Prisoner" has the same meaning as set out in KRS 441.005; and
 - ~~(d)(b)~~ "Qualified mental health professional" has the same meaning as set out in KRS 202A.011.
- (2) The department shall, in collaboration with the Justice Cabinet, the regional community mental health-mental retardation boards, and representatives of the Kentucky statewide affiliate of the National Alliance on Mental Illness, coordinate the development of CIT training designed to train law enforcement officers to effectively respond to persons who may have a mental illness, substance abuse disorder, mental retardation, developmental disability, or dual diagnosis, to reduce injuries to officers and citizens, to reduce inappropriate incarceration, to reduce liability, and to improve risk management practices for law enforcement agencies.
- (3) The CIT training shall include but not be limited to:
 - (a) An introduction to crisis intervention teams;
 - (b) Identification and recognition of the different types of mental illnesses, substance abuse disorders, mental retardation, developmental disabilities, and dual diagnoses;
 - (c) Interviewing and assessing a person who may have a mental illness, substance abuse disorder, mental retardation, a developmental disability, or dual diagnosis;
 - (d) Identification and common effects of psychotropic medications;

- (e) Suicide prevention techniques;
- (f) Community resources and options for treatment;
- (g) Voluntary and involuntary processes for hospitalization of a person with a mental illness, substance abuse disorder, mental retardation, developmental disability, or dual diagnosis; and
- (h) Hostage or other negotiations with a person with a mental illness, mental retardation, substance abuse disorder, developmental disability, or dual diagnosis.
- (4) The curriculum shall be presented by a team composed of, at a minimum:
 - (a) A law enforcement training instructor who has completed a forty (40) hour CIT training course and a CIT training instructor's course which has been approved by the Kentucky Law Enforcement Council, and at least forty (40) hours of direct experience working with a CIT;
 - (b) A representative from the local community mental health-mental retardation board serving the region where CIT training is conducted;
 - (c) A consumer of mental health services; and
 - (d) A representative of the Kentucky statewide affiliate of the National Alliance on Mental Illness.
- (5) (a) The department shall submit the CIT training curriculum and the names of available instructors approved by the department to conduct or assist in the delivery of CIT training to the Kentucky Law Enforcement Council no later than July 1, 2007.
- (b) The Kentucky Law Enforcement Council shall notify the department of approval or disapproval of the CIT training curriculum and trainers within thirty (30) days of submission of the curriculum and the names of instructors.
- (c) The Kentucky Law Enforcement Council may waive instructor requirements for non-law enforcement trainers whose names are submitted by the department.
- If the curriculum or trainers are not approved, the department shall have an opportunity to revise and resubmit the curriculum and to submit additional names of instructors if necessary.
- (6) If the curriculum is approved, the Kentucky Law Enforcement Council shall:
 - (a) Notify the Kentucky State Police and all law enforcement agencies employing peace officers certified under KRS 15.380 to 15.404 of the availability of the CIT training; and
 - (b) Notify all instructors and entities approved for law enforcement training under KRS 15.330 of the availability of the CIT training.
- (7) Any law enforcement training entity approved by the Kentucky Law Enforcement Council may use the CIT training model and curriculum in law enforcement in-service training as specified by subsection (1) of this section that is consistent with the Memphis CIT national model for best practices.
- (8) No later than one (1) year after the effective date of this Act, the department shall submit to the Kentucky Law Enforcement Council a CIT training instructors' curriculum and the names of available instructors approved by the department to conduct or assist in the delivery of CIT training instructors' training. Additional instructors may be submitted on a schedule determined by the Kentucky Law Enforcement Council.
- (9) All CIT trained law enforcement officers shall report to his or her agency on forms provided with the CIT curriculum on encounters with persons with mental illness, substance abuse disorders, mental retardation, developmental disabilities, and dual diagnoses. The law enforcement agency shall aggregate reports received and submit nonidentifying information to the department on a monthly basis. Except for information pertaining to the number of law

enforcement agencies participating in CIT training, the reports to the department shall include the information specified in subsection (10) of this section.

(10) The department shall aggregate all reports from law enforcement agencies under subsection (9) of this section and submit nonidentifying statewide information to the Justice Cabinet, the Criminal Justice Council, the Cabinet for Health and Family Services, and to the Interim Joint Committee on Health and Welfare by December 1, 2008, and annually thereafter. The report shall include but not be limited to:

(a) The number of law enforcement officers trained per agency;

(b) Law enforcement responses to persons with mental illness, substance abuse disorders, mental retardation, developmental disabilities, and dual diagnoses;

(c) Incidents of harm to the law enforcement officer or to the citizen;

(d) The number of times physical force was required and the type of physical force used; and

(e) The outcome of the encounters that may include but not be limited to incarceration or hospitalization.

(11) To implement the requirements of subsections (2) to (5) and (8) to (10) of this section, the department may use public or private funds as available and may develop a contract with a nonprofit entity that is a Kentucky statewide mental health advocacy organization that has a minimum of five (5) years of experience in implementation of the CIT training program in Kentucky.

(12) The Cabinet for Health and Family Services shall create a telephonic behavioral health jail triage system to screen prisoners for mental health risk issues, including suicide risk. The triage system shall be designed to give the facility receiving and housing the prisoner an assessment of his or her mental health risk, with the assessment corresponding to recommended protocols for housing, supervision, and care which are designed to mitigate the mental health risks identified by the system. The triage system shall consist of:

(a) A screening instrument which the personnel of a facility receiving a prisoner shall utilize to assess inmates for mental health, suicide, mental retardation, and acquired brain injury risk factors; and

(b) A continuously available toll-free telephonic triage hotline staffed by a qualified mental health professional which the screening personnel may utilize if the screening instrument indicates an increased mental health risk for the assessed prisoner.

~~(13)(3)~~ In creating and maintaining the telephonic behavioral health jail triage system, the cabinet shall consult with:

(a) The Department of Corrections;

(b) The Kentucky Jailers Association;

(c) The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses; and

(d) The regional community mental health and mental retardation services programs created under KRS 210.370 to 210.460.

~~(14)(4)~~ The cabinet may delegate all or a portion of the operational responsibility for the triage system to the regional community mental health and mental retardation services programs created under KRS 210.370 to 210.460 if the regional program agrees and the cabinet remains responsible for the costs of delegated functions.

~~(15)(5)~~ The cabinet shall design into the implemented triage system the ability to screen and assess prisoners who communicate other than in English or who communicate other than through voice.

~~(16)(6)~~ The cost of operating the telephonic behavioral health jail triage system shall be borne by the

cabinet.

~~(17)(7)~~ Records generated under this section shall be treated in the same manner and with the same degree of confidentiality as other medical records of the prisoner.

~~(18)(8)~~ Unless the prisoner is provided with an attorney during the screening and assessment, any statement made by the prisoner in the course of the screening or assessment shall not be admissible in a criminal trial of the prisoner, unless the trial is for a crime committed during the screening and assessment.

~~(19)(9)~~ The cabinet may, after consultation with those entities set out in subsection ~~(13)(3)~~ of this section, promulgate administrative regulations for the operation of the telephonic behavioral health jail triage system and the establishment of its recommended protocols for prisoner housing, supervision, and care.

SENATE BILL 126 Assistance in other Counties

KRS 431.007 IS AMENDED TO READ AS FOLLOWS:

- (1) A peace officer, certified pursuant to KRS 15.380 to 15.404, who is ~~[policeman]~~ directly employed as a ~~[full-time]~~ police officer by a Kentucky city, county, or urban-county government and whose department meets the requirements of KRS 15.440 and a sheriff, or ~~[full-time]~~ deputy sheriff who has been certified pursuant to KRS 15.380 to 15.404, who is officially requested by a law enforcement agency in another county in Kentucky to assist in any matter within the jurisdiction of the requesting agency shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest in the requesting county as he possesses in the county in which he is a police officer.
- (2) The provisions of this section shall not:
 - (a) Authorize assistance in any labor dispute or strike;
 - (b) Authorize assistance by a constable or deputy constable;
 - (c) Authorize assistance by a special local peace officer; or
 - (d) Authorize assistance by a special deputy sheriff.

SENATE BILL 145 – PEACE OFFICER OATHS

KRS 62.040 IS AMENDED TO READ AS FOLLOWS:

- (1) Every peace officer shall take an oath that he will endeavor, to the best of his ability, to detect and prosecute all gamblers and others violating the laws against gaming.
- (2) The oath specified in subsection (1) of this section may be administered by any person who may administer an oath pursuant to KRS 62.020. A person shall not administer the oath specified in subsection (1) of this section to himself or herself.

KRS 70.010 IS AMENDED TO READ AS FOLLOWS:

- (1) In addition to the oath prescribed in the Constitution, every sheriff shall take the following oath before the county judge/executive of his county: "I, A B, do swear that I will do right, as well to the poor as to the rich, in all things belonging to my office as sheriff; that I will do no wrong to any one for

any gift, reward or promise, nor for favor or hatred, and in all things I will faithfully and impartially execute the duties of my office according to the best of my skill and judgment, so help me God."

- (2) The oath specified in subsection (1) of this section may be administered by any person who may administer an oath pursuant to KRS 62.020. A person shall not administer the oath specified in subsection (1) of this section to himself or herself.**

KRS 62.020 IS AMENDED TO READ AS FOLLOWS:

- (1) The official oath of any officer may be administered by:
- (a) Any state or federal judge, with Kentucky jurisdiction;~~{or}~~
 - (b) **Any member of the General Assembly may administer an oath statewide; or**
 - (c)** Any county judge/executive, notary public, clerk of a court, or justice of the peace, within his district or county.
- (2) For those officers listed in paragraphs (a), (b), (c), (d), and (e) of this subsection, the person administering the oath shall certify in writing that the oath of office was administered and the date of its administration. The person administering the oath shall file a written certification:
- (a) In the Secretary of State's office for:
 - 1.A member of the General Assembly;
 - 2.An officer elected from the state at large;
 - 3.An officer elected from a district greater than one (1) county; or
 - 4.An officer elected from a city whose boundaries extend beyond those of a single county;
 - (b) In the Secretary of State's office for:
 - 1.An officer appointed cabinet secretary; or
 - 2.An officer appointed a deputy or assistant to an elected constitutional officer and who is required by separate statute to take the oath of office;
 - (c) In the Governor's office for the Secretary of State and the assistant Secretary of State;
 - (d) In the office of the county clerk for the county from which an officer is elected to countywide office or office for a district within the county. However, the requirements of this paragraph shall not apply when the requirements of paragraph (a) of this subsection apply; and
 - (e) In the office of a circuit clerk for a county clerk within the jurisdiction of that circuit clerk.

SENATE BILL 153 Court Security Officers

A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

KRS 15.3971 Court Security Officers - Minimum Qualifications - Exceptions

- (1) A person certified as a court security officer after the effective date of this Act, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:**
- (a) Be a citizen of the United States;**

- (b) Be at least twenty-one (21) years of age;
 - (c) Be a high school graduate or have successfully completed a General Educational Development (GED) examination;
 - (d) Possess a valid license to operate a motor vehicle;
 - (e) Be fingerprinted for a criminal background check;
 - (f) Not have been convicted of any felony;
 - (g) Not be prohibited by federal or state law from possessing a firearm;
 - (h) Have received and read the Kentucky Law Enforcement Officers Code of Ethics, as established by the council;
 - (i) Have not received a dishonorable discharge, a bad conduct discharge, or general discharge under other than honorable conditions if he or she served in any branch of the Armed Forces of the United States;
 - (j) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.380 to 15.404;
 - (k) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a court security officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.380 to 15.404;
 - (l) Have been interviewed by the employing agency;
 - (m) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform court security officer duties; and
 - (n) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his or her suitability to perform court security officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a court security officer to the council, which shall accept them as complying with KRS 15.380 to 15.404.
- (2) A court security officer employed on or before the effective date of this Act shall comply with the requirements of subsection (1) of this section within six (6) months of the effective date of this Act.
- (3) A peace officer who has previously attended law enforcement basic training and met the certification requirements of KRS 15.382 and Section 7 of this Act shall not be required to meet the requirements of this section to be appointed a court security officer, but shall meet the requirements of KRS 15.386(3).

A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

KRS 15.3973 Revocation of court security officer certification

The certification of a court security officer may, after a hearing held in conformity with KRS Chapter 13B, be revoked by the council for one (1) or more of the following reasons:

- (1) Failure to meet or maintain training requirements;
- (2) Willful falsification of information to obtain or maintain certified status;
- (3) Certification was the result of an administrative error;
- (4) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;
- (5) Prohibition by federal or state law from possessing a firearm; or
- (6) Receipt of a dishonorable discharge, a bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.

A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

15.3975 Training Requirements for employment - Biennial in-service training - Extension - Loss of status upon failure to complete training - Regaining certification

- (1) A court security officer employed or appointed after the effective date of this Act shall satisfy the basic training requirements for employment if he or she successfully completes law enforcement training developed and approved by the Kentucky Law Enforcement Council and the Administrative Office of the Courts of at least eighty (80) hours.
- (2) A court security officer employed or appointed after the effective date of this Act shall successfully complete forty (40) hours of biennial in-service training that has been certified or recognized by the Kentucky Law Enforcement Council, and that is appropriate to the officer's responsibilities.
- (3) In the event of extenuating circumstances beyond the control of a certified court security officer that prevent the officer from completing the basic or in-service training within the time specified in subsections (1) and (2) of this section, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days in which to complete the training.
- (4) Any court security officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her court security powers and his or her precertification status shall lapse. Any court security officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her court security powers and his or her certification status shall be changed to training deficiency status. When a court security officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the court security officer and his or her agency.
- (5) A certified court security officer who has lost his or her court security powers due solely to his or her failure to meet the in-service training requirements of this section may regain his or her certification status and court security powers upon successful completion of the training deficiency.

A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

KRS 15.3977 Certification categories for court security officers

The following certification categories shall exist for certified court security officers:

- (1) "Precertification status" means that the certified court security officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in Section 1 of this Act, but has not successfully completed the training course provided in subsection (1) of Section 3 of this Act. Upon the council's verification that the minimum qualifications have been met, the officer shall have court security officer powers as authorized under the statute under which he or she was appointed or employed. If an officer fails to successfully complete the training course provided in subsection (1) of Section 3 of this Act within one (1) year of employment, his or her court security powers shall automatically terminate.
- (2) "Certification status" means that unless the certification is in revoked status or inactive status, the certified court security officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have court security officer powers as authorized under the statute under which he or she was appointed or employed.
- (3) (a) "Inactive status" means that unless the certification is in revoked status:
 1. The person has been separated on or after December 1, 1998, from the agency by which he or she was employed or appointed and has no peace officer or court security officer powers;
or
 2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.
- (b) The person may remain on inactive status. A person who is on inactive status and who returns to a court security officer position shall have certification status restored if he or she has successfully completed the training course under subsection (1) of Section 3 of this Act, has not committed an act for which his or her certified status may be revoked pursuant to Section 2 of this Act, and successfully completes an in-service training course as prescribed in an administrative regulation promulgated by the Kentucky Law Enforcement Council.
- (c) A person returning from inactive to active certification as a court security officer after the effective date of this Act, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:

1. Be a citizen of the United States;
 2. Possess a valid license to operate a motor vehicle;
 3. Be fingerprinted for a criminal background check;
 4. Not have been convicted of any felony;
 5. Not be prohibited by federal or state law from possessing a firearm;
 6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
 7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions if having served in any branch of the Armed Forces of the United States;
 8. Have been interviewed by the employing agency; and
 9. Not have had certification as a peace officer permanently revoked in another state.
- (4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the certified court security officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's court security powers shall automatically terminate, and he or she shall not exercise court security officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.
- (5) "Revoked status" means that the court security officer has no court security powers and his or her certification has been revoked by the Kentucky Law Enforcement Council for any one (1) of the following reasons:
- (a) Failure to meet or maintain training requirements;
 - (b) Willful falsification of information to obtain or maintain certified status;
 - (c) Certification was the result of an administrative error;
 - (d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;
 - (e) Prohibition by federal or state law from possessing a firearm; or
 - (f) Receipt of a dishonorable discharge, a bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.
- (6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status as a court security officer.
- The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified court security officer.

A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

KRS 15.3979 Court security officer not considered hazardous duty position - Ineligibility for Kentucky Law Enforcement Foundation Program fund.

Except for persons currently employed in a hazardous duty position and who remain in that

hazardous duty position while performing certified court security officer functions, the position of certified court security officer shall not be considered as a hazardous duty position within the meaning of KRS 61.592 and shall not be eligible to participate in the Kentucky Law Enforcement Foundation Program Fund unless the officer meets the requirements of KRS 15.382, 15.404, and 15.440.

KRS 15.310 IS AMENDED TO READ AS FOLLOWS:

As used in KRS 15.315 to 15.510, 15.990, and 15.992, unless the context otherwise requires:

- (1) "Basic training course" means the peace officer or court security officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council;
- (2) "Certified court security officer" means a court security officer who is certified under KRS 15.380 to 15.404;
- (3) "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.404 ~~[15.402]~~;
- ~~(4)(3)~~ "Certification" means the act by the council of issuing certification to a peace officer or court security officer who successfully completes the training requirements pursuant to KRS 15.404 and the requirements set forth within this chapter;
- ~~(5)(4)~~ "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990, and 15.992;
- (6) "Court security officer" means a person required to be certified under KRS 15.380(1)(c) and who is charged with the duties set out in KRS 70.280;
- ~~(7)(5)~~ "Department" means the Department of Criminal Justice Training of the Justice Cabinet;
- ~~(8)(6)~~ "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;
- ~~(9)(7)~~ "Peace officer" means a person defined in KRS 446.010;
- ~~(10)(8)~~ "Secretary" means the secretary of the Justice Cabinet; and
- ~~(11)(9)~~ "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

KRS 15.380 IS AMENDED TO READ AS FOLLOWS:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
 - (a) State Police officers, but for the commissioner of the State Police;
 - (b) City, county, and urban-county police officers;
 - (c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law

- enforcement officers appointed under KRS 61.902;
- (f) Airport safety and security officers appointed under KRS 183.880;
- (g) Office of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090;
- (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040; ~~and~~
- (i) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360; and
- (j) Commonwealth detectives employed under KRS 69.110.
- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
 - (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers;
 - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
 - (i) Investigators employed by the Office of Charitable Gaming in accordance with KRS 238.510.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
 - (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;
 - (d) Jailers;
 - (e) Kentucky Horse Racing Authority security officers employed under KRS 230.240; and
 - (f) Commissioner of the State Police.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

KRS 15.388 IS AMENDED TO READ AS FOLLOWS:

- (1) Within five (5) working days of employment or appointment, the chief executive officer of the employing agency, or his designee, shall file a report with the council certifying that the newly employed officer is certified or meets or exceeds the precertification qualifications of KRS 15.382 for peace officer or KRS 15.3971 for court security officers.
- (2) If the person is certified, the council shall continue certified status.
- (3) If the person is on inactive status, the council shall upgrade to certified status unless the certification

is revoked or denied as provided by KRS 15.380 to 15.404.

- (4) If the person is not certified and not on inactive status, but has successfully completed an applicable basic training course approved and recognized by the council, the council shall designate the person as being in certified status unless the certification is revoked or denied as provided by KRS 15.380 to 15.404.
- (5) If the person is not certified and not on inactive status, and has not successfully completed an applicable basic training course approved and recognized by the council, the council shall designate the person as being in precertification status.
- (6) A person who is in precertification status shall, upon successful completion of the required basic training, be certified unless he has committed an act that would result in revocation of his certificate in which case he shall be denied certification.
- (7) A person who is denied certified status under this section shall have the same right of appeal as a person who has been revoked under KRS 15.380 to 15.404.
- (8) If the certified peace officer has successfully completed the basic training required by KRS 15.404 and transfers from a peace officer or court security officer position from a current employer to a peace officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.
- (9) If the certified court security officer has successfully completed the basic training required by KRS 15.3975 and transfers from a court security officer position from a current employer to a court security officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.
- (10) A certified court security officer who has met the requirements of KRS 15.3971 shall not transfer from a court security officer position to a peace officer position unless the certified court security officer meets all the requirements of a certified peace officer under KRS 15.382 and 15.404(1). If the certified court security officer has met the minimum qualifications of KRS 15.382, successfully completed the basic training required for certified peace officers under KRS 15.404(1), and transfers from a court security officer position from a current employer to a peace officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.

KRS 23A.090 IS AMENDED TO READ AS FOLLOWS:

- (1) The sheriff of the county in which the Circuit Court is sitting shall provide such deputies, certified court security officers, and ordinary equipment as the Chief Circuit Judge shall deem necessary to provide security services to the court and its facilities.
- (2) The sheriff shall be compensated for these duties at rates to be determined by law.

A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

KRS 70.280 Court security officers - Duties - Prohibited Conduct

- (1) A certified court security officer shall be charged with the following duties:
 - (a) Attending sessions of any court of the Court of Justice in the county in which he or she

is sworn:

- (b) Keeping order in the courts;
 - (c) Providing security services to the courts within the court facility or immediate area of the court facility;
 - (d) Guarding prisoners during court appearances;
 - (e) Serving warrants and other court papers on individuals physically present in the courtroom;
 - (f) Transporting prisoners;
 - (g) Arresting and taking individuals into custody who are in the court facility or immediate area of the court facility, or while transporting prisoners; and
 - (h) Service of process and other papers relating to civil matters on individuals physically present in the courtroom.
- (2) A certified court security officer shall not:
- (a) Go outside the immediate area of the court facility in which he or she is providing security services to make an arrest or take an individual into custody, except when transporting prisoners;
 - (b) Patrol the roads, streets, or highways;
 - (c) Issue traffic citations, except to enforce parking regulations around the court facility; or
 - (d) Perform general law enforcement duties outside that of providing court security.

KRS 70.030 IS AMENDED TO READ AS FOLLOWS:

- (1) The sheriff may appoint his or her own deputies and may revoke the appointment at his or her pleasure except where that revocation is prohibited by the provisions of KRS 70.260 to 70.273. In a county containing a consolidated local government or city of the first class with a deputy sheriff merit board, the term of office of a deputy shall continue from sheriff to sheriff unless a deputy is removed according to the provisions of KRS 70.260 to 70.273. Before any deputy executes the duties of his or her office, he or she shall take the oath required to be taken by the sheriff.
- (2) The sheriff may appoint his or her own certified court security officers and may revoke the appointment at his or her pleasure. A certified court security officer shall take an oath to faithfully perform the duties of his or her office and that he or she possesses the minimum qualifications under KRS 15.3971. .
- (3) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him or her in the performance of the duties of his or her office. All nonsworn personnel shall serve at the pleasure of the sheriff.
- ~~(4)(3)~~ No sheriff whose county has adopted a deputy sheriff merit board under KRS 70.260 shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in KRS 70.260.
- ~~(5)(4)~~ Except for certified court security officers, a sheriff's office may, upon the written request of the sheriff, participate in the Kentucky Law Enforcement Foundation Program Fund authorized by KRS 15.410 to 15.510 without the county establishing a deputy sheriff merit board. This subsection shall not prohibit the sheriff from requesting the consolidated local government or the fiscal court to establish a deputy sheriff merit board.

KRS 70.036 IS AMENDED TO READ AS FOLLOWS:

- (1) Sheriffs, ~~and~~ bonded deputy sheriffs, and certified court security officers are authorized to wear approved uniforms while engaged in the performance of their duties. As used herein, "approved uniforms" means those uniforms the design and color of which are officially approved by the Kentucky Sheriffs' Association.
- (2) The expense of uniforms used by sheriffs, ~~and~~ their deputies, and certified court security officers in accordance with this section may be paid by the fiscal court from the county general fund. All such uniforms shall be the property of the county.

KRS 70.140 IS AMENDED TO READ AS FOLLOWS:

The sheriff shall, by himself or deputy, attend and keep order in the fiscal court and any court of the Court of Justice and shall obey the orders of said courts, but a certified court security officer may only attend and keep order in any court of the Court of Justice and shall obey the orders of said court.

KRS 527.020 IS AMENDED TO READ AS FOLLOWS:

- (1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.
- (2) Peace officers and certified court security officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.
- (3) Policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.
- (4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.
- (5) (a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without any limitation other than as provided in this subsection:

1.A Commonwealth's attorney or assistant Commonwealth's attorney;

2.A county attorney or assistant county attorney;

3.A justice or judge of the Court of Justice; and

4.A retired or senior status justice or judge of the Court of Justice.

- (b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
- (c) A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of State Police.
- (6) (a) Except provided in this subsection, the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:

1.An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;

2.An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; and

3.The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed.(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

- (7) (a) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

- (b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
- (8) A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer, regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a firearm or ammunition, or both, or other deadly weapon in a glove compartment of a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.
- (9) Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

A NEW SECTION OF KRS 15.410 TO 15.510 IS CREATED TO READ AS FOLLOWS:

KRS 15.442 Court security officers ineligible to participate in fund - Appointment of court security officer does not affect eligibility of sheriff or deputy sheriffs

- 1) A court security officer certified pursuant to KRS 15.380 to 15.404 shall not be a deputy sheriff.*
- (2) A court security officer certified pursuant to KRS 15.380 to 15.404 shall not be eligible for inclusion in the Kentucky Law Enforcement Foundation Program fund.*
- (3) The appointment of a court security officer, whether certified or not, by a sheriff shall not affect the ability of the sheriff or certified deputy sheriffs to participate in the Kentucky Law Enforcement Foundation Program fund if all other requirements for participation in the fund under KRS 15.410 to 15.510 have been met. A sheriff or deputy sheriff who is otherwise eligible under KRS 15.410 to 15.510 for participation in the Kentucky Law Enforcement Foundation Program fund shall not be deemed ineligible because of the appointment of a court security officer by the sheriff or by any other body.*

A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

KRS 70.282 Provision of security services for Court of Justice, courthouses, and courtrooms limited to sheriff and Department of Kentucky State Police - Exceptions

- (1) No agency of a unit of local government, other than the sheriff, shall provide security services for the Court of Justice, a courthouse, or a courtroom unless the provision of the service is*

- specifically authorized by the Kentucky Revised Statutes.
- (2) No agency of state government, other than the Kentucky State Police or the Administrative Office of the Courts, shall provide security services for the Court of Justice, a courthouse, or a courtroom unless the provision of the services is specifically authorized by the Kentucky Revised Statutes.
 - (3) This section shall not preclude any peace officer, upon request of a court security officer or justice or judge of the Court of Justice, from providing security or law enforcement service for a specific incident or series of specific incidents.
 - (4) This section shall not preclude any peace officer from taking law enforcement action in a courthouse or courtroom upon viewing the commission of an offense, or upon service of a warrant or civil or criminal process.

A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

KRS 70.284 Failure or refusal of sheriff to provide court security services --
Contracts with units of local government.

- (1) In any county if the sheriff fails or refuses to provide certified peace officers or certified security officers for the provision of security services to any court of the Court of Justice then the Administrative Office of the Courts shall contract with a county, urban-county, charter county, consolidated local government, combined local government agency, or an agency of a city government to provide security services to any court of the Court of Justice in the county where the sheriff has failed or refused to provide such services.
- (2) Security personnel provided by a local government under contract to the Administrative Office of the Courts shall be certified peace officers, certified court security officers, or a combination thereof.
- (3) A court security officer provided by a unit of local government shall:
 - (a) Meet all of the qualifications and training specified in KRS 15.380 to 15.404; and
 - (b) Have the same power, duties, restrictions, and authority as a certified court security officer pursuant to KRS Chapter 70, and Sections 14 and 15 of this Act.

SENATE JOINT RESOLUTION 48 KASPER

A JOINT RESOLUTION relating to the Kentucky All Schedule Prescription Electronic Reporting program.

WHEREAS, the Kentucky All Schedule Prescription Electronic Reporting program (KASPER) is proving to be an increasingly effective tool in combating the problem of prescription drug abuse in the Commonwealth; and

WHEREAS, the effectiveness of KASPER greatly depends on the ability of the system to capture information in regard to controlled substance prescriptive activity and this effectiveness can be defeated by obtaining prescriptions from medical practitioners in adjoining states; and

WHEREAS, the General Assembly, recognizing this weakness, has specifically authorized the secretary of the Cabinet for Health and Family Services to enter into reciprocal agreements with any other state or states of the United States to share prescription drug monitoring information if the other state's prescription drug monitoring program is compatible with the program in Kentucky; and

WHEREAS, the KASPER program has made significant strides in reducing the time lag experienced

by users in retrieving information from the system but room yet remains for improvement, including the possibility of real-time access for medical and pharmaceutical practitioners;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 2. The Cabinet for Health and Family Services shall actively and immediately exercise the authority delegated to the secretary of that cabinet in 2004 to enter into reciprocal agreements with other states relative to the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system.

Section 3. The Cabinet for Health and Family Services shall actively and immediately identify and resolve the personnel, hardware, software, and regulatory steps needed to achieve the goal of allowing KASPER system users real-time access to the system and its capabilities.

Section 4. The secretary of the Cabinet for Health and Family Services shall prepare and tender to the Legislative Research Commission by November 1, 2007, a report detailing the actions of the secretary and the cabinet taken in accordance with this Joint Resolution.

Section 5. The Clerk of the House of Representatives of the Kentucky General Assembly is directed to deliver a copy of this Joint Resolution to the secretary of the Cabinet for Health and Family Services.

HOUSE BILL 32 Motor Vehicle Operator's Licensing

KRS 159.051 IS AMENDED TO READ AS FOLLOWS:

- (1) When a student age sixteen (16) or seventeen (17) drops out of school or is declared to be academically deficient, the school administrator or his designee shall notify the superintendent of schools of the district in which the student is a resident or is enrolled. The reports shall be made at the end of each semester but may be made earlier in the semester for accumulated absences. A student shall be deemed to have dropped out of school when he has nine (9) or more unexcused absences in the preceding semester. Any absences due to suspension shall be unexcused absences. A student shall be deemed to be academically deficient when he has not received passing grades in at least four (4) courses, or the equivalent of four (4) courses, in the preceding semester. The local school board shall adopt a policy to reflect a similar standard for academic deficiency for students in alternative, special education, or part-time programs.
- (2) Within ten (10) days after receiving the notification, the superintendent shall report the student's name and Social Security number to the Transportation Cabinet. As soon as possible thereafter, the cabinet shall notify the student that his operator's license, intermediate license, permit, or privilege to operate a motor vehicle has been revoked or denied and shall inform the student of his right to a hearing before the District Court of appropriate venue to show cause as to the reasons his ~~driver's~~ license, permit, or privilege should be reinstated. Within fifteen (15) days after this notice is sent, the custodial parent, legal guardian, or next friend of the student may request an ex parte hearing before the District Court. The student shall not be charged District Court filing fees. The notification shall inform the student that he is not required to have legal counsel. ~~Revocation under this subsection shall not be permitted unless the local school district shall operate an alternative education program approved by the Department of Education designed to meet the learning needs of students who are unable to succeed in the regular program.~~
- (3) In order for the student to have his license reinstated, the court shall be satisfied that the license is needed to meet family obligations or family economic considerations which if unsatisfied would

create an undue hardship or that the student is the only licensed driver in the household or the student is not considered a dropout or academically deficient pursuant to this section. If the student satisfies the court, the court shall notify the cabinet to reinstate the student's license at no cost. The student, if aggrieved by a decision of the court issued pursuant to this section, may appeal the decision within thirty (30) days to the Circuit Court of appropriate venue. A student who is being schooled at home shall be considered to be enrolled in school.

- (4) A student who has had his license revoked under the provisions of this section may reapply for his driver's license as early as the end of the semester during which he enrolls in school and successfully completes the educational requirements. A student may also reapply for his driver's license at the end of a summer school semester which results in the student having passed at least four (4) courses, or the equivalent of four (4) courses, during the successive spring and summer semesters, and the courses meet the educational requirements for graduation. He shall provide proof issued by his school within the preceding sixty (60) days that he is enrolled and is not academically deficient.

KRS 186.470 IS AMENDED TO READ AS FOLLOWS:

- (1) The application of any minor under the age of eighteen (18) for an operator's license, motorcycle operator's license, intermediate license, or any instruction permit shall not be granted unless the application is signed by a parent or legal guardian of the applicant. Regardless of which parent signs the application, both parents shall be responsible as provided in KRS 186.590. If the minor does not have a father, mother, or guardian, an operator's license, intermediate license, or instruction permit shall not be granted to the minor unless his application is signed by a person willing to assume the obligation imposed by KRS 186.590 upon a person signing the application of a minor. A signature shall not be required in the case of the renewal of a minor's license but the signature on the original application shall continue to make the parent, guardian, or other person liable under the provisions of KRS 186.590 on all renewals of the minor's license until he reaches the age of eighteen (18) unless the license, or any renewal thereof, is canceled as provided in subsection (3) ~~[(2)]~~ of this section.
- (2) *The application shall include parental consent for the receipt and release of the information as set forth in KRS 159.051 regarding the attendance and academic requirements for a minor to acquire and keep an operator's license, intermediate license, instructional permit, or privilege to operate a motor vehicle.*
- (3) A parent or a guardian of a minor applicant may file with the cabinet a verified written request that the license of the minor be canceled. Thereupon the license of the minor shall be canceled and the person who signed the application shall be relieved as to subsequent acts of the minor from the liability imposed by subsection (1) of KRS 186.590.
- ~~(4)~~(3) The cabinet upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license shall have the license canceled and no new license shall be issued to the minor until a new application, signed and verified, is made as required by this section.

HOUSE BILL 78 – Peace Officer Certification

KRS 15.400 IS AMENDED TO READ AS FOLLOWS:

- (1) The effective date of KRS 15.380 to 15.404 shall be December 1, 1998. All peace officers

employed as of December 1, 1998, shall be deemed to have met all the requirements of KRS 15.380 to 15.404 and shall be granted certified status as long as they:

(a) Remain in continuous employment of the agency by which they were employed as of December 1, 1998, and are employed within sixty (60) days by another law enforcement agency subject to the provisions of KRS 15.380 to 15.404; or

(b) Shall have successfully completed an approved basic training course approved and recognized by the Kentucky Law Enforcement Council pursuant to KRS 15.440(1)(d) when seeking employment with another law enforcement agency.

(2) Any peace officers employed after December 1, 1998, shall comply with all minimum standards specified in KRS 15.380 to 15.404. Persons newly employed or appointed after December 1, 1998, shall have one (1) year within which to gain certified status or they shall lose their law enforcement powers.

(3) The Open Records Act notwithstanding, the person's home address, telephone number, date of birth, Social Security number, background investigation, medical examination, psychological examination, and polygraph examination conducted for any person seeking certification pursuant to KRS 15.380 to 15.404 shall not be subject to disclosure.

KRS 15.386 IS AMENDED TO READ AS FOLLOWS:

The following certification categories shall exist:

(1) "Precertification status" means that the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met, the officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate.

(2) "Certification status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed.

(3) (a) "Inactive status" means that unless the certification is in revoked status:

1. The person has been separated on or after December 1, 1998, from the agency by which he was employed or appointed and has no peace officer powers; or

2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.

(b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she meets the requirements of KRS 15.400(1) or has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to KRS 15.380 to 15.404 and successfully completes in-service training as prescribed by the council, as follows:

1. No more than forty (40) hours if the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation; or
2. No more than eighty (80) hours if the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation.
- (4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.
- (5) "Revoked status" means that the officer has no enforcement powers and has been separated from an enforcement agency for any one (1) of the following reasons:
 - (a) Failure to meet or maintain training requirements;
 - (b) Willful falsification of information to obtain or maintain certified status;
 - (c) Certification was the result of an administrative error;
 - (d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;
 - (e) Prohibition by federal or state law from possessing a firearm.
- (6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.
- (7) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

KRS 15.392 is amended to read as follows:

This statute was changed by two separate bills - please see the current text under House Bill 258.

KRS 15.380 IS AMENDED TO READ AS FOLLOWS:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
 - (a) State Police officers, but for the commissioner of the State Police;
 - (b) City, county, and urban-county police officers;
 - (c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
 - (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Office of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090;
 - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040; and
 - (i) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.
- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel

- Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
 - (4) The following officers may, upon request of the employing agency, be certified by the council:
 - (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers;
 - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
 - (i) Investigators employed by the Office of Charitable Gaming in accordance with KRS 238.510; and
 - (j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.
 - (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
 - (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;
 - (d) Jailers;
 - (e) Kentucky Horse Racing Authority security officers employed under KRS 230.240; and
 - (f) Commissioner of the State Police.
 - (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

NOTE: This law shall be retroactive to July 1, 2004.

HOUSE BILL 230 – SCHOOL BUS

A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

KRS 281A.205 Operation of school bus while using cellular telephone prohibited **- Exceptions**

- (1) As used in this section, "cellular telephone" means a cellular, analog, wireless, or digital telephone.
- (2) A person shall not operate a school bus, as defined in KRS 281A.010, on any highway while using a cellular telephone while the bus is in motion and transporting one (1) or more children, except for communications made to and from a central dispatch, school transportation department, or its equivalent when the bus is not equipped with a functioning two-way radio.

(3) Notwithstanding subsection (2) of this section, a person operating a school bus shall be allowed to use a cellular telephone in the event of a bona fide emergency.

KRS 281A.190 IS AMENDED TO READ AS FOLLOWS:

- (1) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if convicted of:
 - (a) Driving or being in physical control of a motor vehicle under the influence of alcohol or a controlled substance;
 - (b) Driving or being in physical control of a motor vehicle while the alcohol concentration of the person's blood or breath or urine is four hundredths (0.04) or more;
 - (c) Leaving the scene of an accident involving a motor vehicle driven by a person who holds or is required to hold a CDL;
 - (d) Using a motor vehicle in the commission of any felony listed in KRS 186.560;
 - (e) Refusing to submit to testing as required by KRS 281A.220 when driving a motor vehicle;
 - (f) Committing a first violation of driving a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled, or when the person is disqualified from operating a commercial motor vehicle; or
 - (g) Causing a fatality through negligent or criminal operation of a commercial motor vehicle.
- (2) A person who holds or is required to hold a CDL shall be disqualified for life if convicted of two (2) or more violations of any of the offenses specified in subsection (1) of this section or any combination of those offenses, arising from two (2) or more separate incidents. The provisions of this subsection shall only apply to convictions that occurred after the disqualification dates established by the Federal Motor Carrier Safety Administration. The Transportation Cabinet shall set forth those dates in an administrative regulation promulgated pursuant to KRS Chapter 13A.
- (3) If any violation specified in subsection (1) of this section occurred while transporting a hazardous material required to be placarded, the person who holds or is required to hold a CDL shall be disqualified for a period of three (3) years.
- (4) Notwithstanding any other provisions of law, a period of suspension, revocation, or disqualification imposed under the provisions of this chapter shall not be reduced. However, in accordance with the provisions of Title 49, Code of Federal Regulations, Part 383, the cabinet may establish guidelines including conditions under which a disqualification of not less than ten (10) years may be imposed.
- (5) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.
- (6) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.
- (7) A person who holds or is required to hold a CDL shall be disqualified for the first offense from driving a commercial motor vehicle for six (6) months if the person has been convicted of committing any of those offenses enumerated in KRS 186.610 involving a commercial motor vehicle, commercial driver's license, or application for that license. For the second and each subsequent offense, the person shall be disqualified from operating a commercial motor vehicle for a period of one (1) year.
- (8) The cabinet shall deny a person a commercial driver's license or shall suspend, revoke, or cancel his

commercial driving privilege, subject to a hearing conducted in accordance with KRS 189A.107, when the cabinet has reason to believe that the person refused to submit to a test to determine his alcohol concentration while driving a commercial motor vehicle.

- (9) If a person who holds or is required to hold a CDL is convicted of any of the railroad crossing offenses or conduct enumerated in KRS 189.500, 189.560, and 189.565, then the person shall be disqualified from operating a commercial motor vehicle for a period of:
- (a) Sixty (60) days for the first offense;
 - (b) One hundred twenty (120) days for the second offense within a three (3) year period; and
 - (c) One (1) year for the third or subsequent offense within a three (3) year period.
- (10) If a person who holds or is required to hold a CDL violates an out-of-service order while transporting nonhazardous materials, then the person shall be disqualified from operating a commercial motor vehicle for a period of:
- (a) Ninety (90) days for the first offense;
 - (b) One (1) year for the second offense in a separate incident within a ten (10) year period; and
 - (c) Three (3) years for the third or subsequent offense in a separate incident within a ten (10) year period.
- (11) If a person who holds or is required to hold a CDL violates an out-of-service order while transporting hazardous materials required to be placarded under the 49 U.S.C. sec. 5101 et seq., or operating a commercial motor vehicle designed to transport sixteen (16) or more passengers, including the driver, then the person shall be disqualified from operating a commercial motor vehicle for a period of:
- (a) One hundred eighty (180) days for the first offense; and
 - (b) Three (3) years for the second or subsequent offense in a separate incident within a ten (10) year period.
- (12) **A person who violates the provisions of KRS 281A.205 shall be fined fifty dollars (\$50) for the first offense. For a subsequent offense, a violator shall be fined one hundred dollars (\$100) and shall have his or her school bus endorsement suspended for a period of six (6) months.**
- (13)** After disqualifying a commercial driver's license holder or suspending, revoking, or canceling a commercial driver's license, the Transportation Cabinet shall update its records to reflect that action within ten (10) days of receipt. After disqualifying a commercial driver's license holder or suspending, revoking, or canceling an out-of-state commercial driver's license holder's privilege to operate a commercial motor vehicle for at least sixty (60) days, the Transportation Cabinet shall notify the licensing authority of the state which issued the commercial driver's license or commercial driver's instruction permit with this information within ten (10) days. The notification shall include both the disqualification and the violation that resulted in the disqualification, suspension, cancellation, or revocation.
- ~~(14)~~~~(13)~~ Upon notice from the Federal Motor Carrier Safety Administration that a driver has been determined to be an imminent hazard and has been disqualified from operating a commercial motor vehicle, the cabinet shall act in accordance with the provisions of 49 C.F.R. sec. 383.52. The cabinet shall notify the driver of the disqualification, which shall not exceed one (1) year in duration, and of the right to appeal to the Federal Motor Carrier Safety Administration in accordance with 49 C.F.R. sec. 383.52.

HOUSE BILL 258 – CERTIFICATION OF PEACE OFFICERS

A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

KRS 15.391 Grounds for revocation of peace officer certification.

The certification of a peace officer may, after a hearing held in conformity with KRS Chapter 13B, be revoked by the council for one (1) or more of the following:

- (1) Failure to meet or maintain training requirements;**
- (2) Willful falsification of information to obtain or maintain certified status;**
- (3) Certification that was the result of an administrative error;**
- (4) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;**
- (5) Prohibition by federal or state law from possessing a firearm; or**
- (6) Receipt of a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.**

KRS 15.330 IS AMENDED TO READ AS FOLLOWS:

- (1) The council is vested with the following functions and powers:
 - (a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement and telecommunications training courses required under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;
 - (b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;
 - (c) To prescribe qualifications for attendance and conditions for expulsion from such schools;
 - (d) To prescribe minimum standards and qualifications for voluntary career development programs for certified peace officers and telecommunications, including minimum standards for experience, education, and training, and to issue certificates to those meeting the minimum standards;
 - (e) To approve, to issue, and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to **15.404** ~~[15.510, 15.530 to 15.590, and 15.990 to 15.992];~~
 - (f) To approve law enforcement officers, telecommunications, and other persons as having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;
 - (g) To inspect and evaluate schools at any time and to require of schools, instructors, and persons approved or to be approved under the provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992, any information or documents;
 - (h) To promulgate reasonable rules and administrative regulations in accordance with KRS Chapter 13A to accomplish the purposes of KRS 15.310 to **15.404** ~~[15.510, 15.530 to 15.590, and 15.990 to 15.992];~~
 - (i) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;
 - (j) To adopt bylaws for the conduct of its business not otherwise provided for; and
 - (k) The council shall have the authority to certify police officers as set out in this chapter.
- (2) The provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 do not apply to the Department of State Police except for the certification requirement established by this chapter.

KRS 15.382 IS AMENDED TO READ AS FOLLOWS:

A person certified after December 1, 1998, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:

- (1) Be a citizen of the United States;
- (2) Be at least twenty-one (21) years of age;
- (3) Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination;
- (4) Possess a valid license to operate a motor vehicle;
- (5) Be fingerprinted for a criminal background check;
- (6) Not have been convicted of any felony;
- (7) Not be prohibited by federal or state law from possessing a firearm;
- (8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
- (9) Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions if having served in any branch of the armed forces of the United States;
- (10) Have passed a medical examination as defined by the council by administrative regulation to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (13) Have been interviewed by the employing agency;
- (14) Not have had certification as a peace officer permanently revoked in another state;
- (15) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS 15.315 to 15.510; and
- (17) Have taken a polygraph examination administered or approved by the council by administrative

regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS 15.315 to 15.510.

KRS 15.386 IS AMENDED TO READ AS FOLLOWS:

The following certification categories shall exist:

- (1) "Precertification status" means that the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those peace officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met, the officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate.
- (2) "Certification status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed.
- (3) (a) "Inactive status" means that unless the certification is in revoked status:
 1. The person has been separated on or after December 1, 1998, from the agency by which he or she was employed or appointed and has no peace officer powers; or
 2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.
- (b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to KRS 15.400(1) ~~[KRS 15.380 to 15.404]~~ and successfully completes in-service training as prescribed by the council, as follows:
 1. ~~[No more than forty (40) hours]~~ If the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation, he or she shall complete:
 - a. The twenty-four (24) hour legal update Penal Code course;
 - b. The sixteen (16) hour legal update constitutional procedure course; and
 - c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; or
 2. ~~[No more than eighty (80) hours]~~ If the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation, he

or she shall complete:

a. The twenty-four (24) hour legal update Penal Code course;

b. The sixteen (16) hour legal update constitutional procedure course;

c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; and

d. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:

i. Basic officer skills;

ii. Orientation for new police chiefs; or

iii. Mandatory duties of the sheriff.

(c) A person returning from inactive to active certification after the effective date of this Act, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:

1. Be a citizen of the United States;

2. Possess a valid license to operate a motor vehicle;

3. Be fingerprinted for a criminal background check;

4. Not have been convicted of any felony;

5. Not be prohibited by federal or state law from possessing a firearm;

6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;

7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions if having served in any branch of the Armed Forces of the United States;

8. Have been interviewed by the employing agency; and

9. Not have had certification as a peace officer permanently revoked in another state.

(4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.

(5) "Revoked status" means that the officer has no enforcement powers and his or her certification has been revoked by the Kentucky Law Enforcement Council~~has been separated from an~~

enforcement agency] for any one (1) of the following reasons:

- (a) Failure to meet or maintain training requirements;
 - (b) Willful falsification of information to obtain or maintain certified status;
 - (c) Certification was the result of an administrative error;
 - (d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;
 - (e) Prohibition by federal or state law from possessing a firearm; or
 - (f) Receipt of a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.
- (6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.
- (7) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

KRS 15.392 IS AMENDED TO READ AS FOLLOWS:

- (1) Within ten (10) working days from separation from service, the chief executive officer of the employing agency or his designee shall file with the council a summary report that provides the relevant information about the person's separation from service.
- (2) If the person ~~has been~~ separated from service has successfully completed basic training at a school certified or recognized by the council, the council shall place the certification on inactive status. Placement of certification on inactive status shall not prevent the council from subsequently instituting an action to revoke an officer's certification in appropriate cases in accordance with KRS 15.391 for any reason justifying revoked or denied status pursuant to KRS 15.386, the council shall revoke the person's certification.
- (3) If the person has been separated from service or ~~for any other reason other than death, or one justifying revoked or denied status pursuant to KRS 15.386; and~~
 - ~~(a) The person has successfully completed basic training at a school certified or recognized by the council, the council shall place the certification on inactive status; or~~
 - ~~(b) The person has not successfully completed basic training at a school certified or recognized by the council, the certification shall lapse.~~
- (4) If the person has been separated due to death, the certification shall be retired.
- ~~(5) The employing agency's findings of fact and evidentiary conclusions shall be deemed final. The council shall be limited only to revoking the certification.~~
- ~~(6) The council shall not accept or hear complaints.]~~

KRS 15.404 IS AMENDED TO READ AS FOLLOWS:

- (1) (a) Any peace officers employed or appointed after December 1, 1998, who have not successfully completed basic training at a school certified or recognized by the Kentucky Law Enforcement Council, shall within one (1) year of their appointment or employment, successfully complete at least six hundred forty (640) hours of basic training at a school certified or recognized by the Kentucky Law Enforcement Council.
- (b) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing basic training within one (1) year, the commissioner of the department or his or her designee may grant the officer an extension of time, not to

- (c) Any peace officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification status shall lapse. Further, the peace officer shall be prohibited from serving as a peace officer for a period of one (1) year from the date that his or her precertification lapses.
- (2) (a) All peace officers with active certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council, that is appropriate to the officer's rank and responsibility and the size and location of his department.
- (b) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the in-service training within one (1) year, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training. If the officer is unable to complete the in-service training due to injury or illness that prevents him or her from working as a peace officer, the one hundred eighty (180) day extension shall begin on the date that the officer returns to work.
- (c) Any peace officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her certification status shall be changed to training deficiency status.
- (d) When a peace officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the peace officer and his or her agency.
- (e) The requirements of this subsection shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces.
- (f) This waiver shall be retroactive for peace officers from the date of September 11, 2001.
- (3) ~~[In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the basic or in-service training within the time specified in subsections (1) and (2) of this section, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days in which to complete the training.~~
- (4) ~~Any peace officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification status shall lapse. Any peace officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her certification status shall be changed to training deficiency status. When a peace officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the peace officer and his or her agency.~~
- (5) ~~[An officer who has lost his or her law enforcement powers due solely to his or her failure to meet the in-service training requirements of this section may regain his or her certification status and law enforcement powers upon successful completion of the training deficiency.~~

KRS 18A.202 IS AMENDED TO READ AS FOLLOWS:

- (1) The secretary is authorized to install and implement by administrative regulation work-related incentive programs for state employees. Such programs may include, but need not be limited to, an employee suggestion system whereby employees in the classified service and employees falling

under KRS Chapter 16 may be recognized and rewarded for submitting suggestions that result in the improvement of state service or in the realization of financial savings by the state. Such programs may provide that when an employee suggestion has been adopted and resulted in a financial savings to the state, the employee who submitted the suggestion may be compensated for his service through a cash bonus in an amount to the lesser of ten percent (10%) of the amount saved or two thousand five hundred dollars (\$2,500).

- (2) Nothing in this section shall be construed to allow KRS Chapter 16 employees to collect any fees or rewards for performance of acts in the line of duty as prohibited in KRS 16.110.

KRS 197.025 IS AMENDED TO READ AS FOLLOWS:

- (1) KRS 61.870 to 61.884~~[and 61.878]~~ to the contrary notwithstanding, no person shall have access to any records if the disclosure is deemed by the commissioner of the department or his designee to constitute a threat to the security of the inmate, any other inmate, correctional staff, the institution, or any other person.
- (2) KRS 61.870 to 61.884~~[61.872]~~ to the contrary notwithstanding, the department shall not be required to comply with a request for any record from any inmate confined in a jail or any facility or any individual on active supervision under the jurisdiction of the department, unless the request is for a record which contains a specific reference to that individual.
- (3) KRS 61.870 to 61.884~~[61.880]~~ to the contrary notwithstanding, all persons confined in a penal facility shall challenge any denial of an open record with the Attorney General by mailing or otherwise sending the appropriate documents to the Attorney General within twenty (20) days of the denial pursuant to the procedures set out in KRS 61.880(2) before an appeal can be filed in a Circuit Court.
- (4) KRS 61.870 to 61.884~~[61.872]~~ to the contrary notwithstanding, the Department of Corrections shall refuse to accept the hand delivery of an open records request from a confined inmate.
- (5) KRS 61.870 to 61.884 to the contrary notwithstanding, all records containing information expunged pursuant to law shall not be open to the public.
- (6) The policies and procedures or administrative regulations of the department which address the security and control of inmates and penitentiaries shall not be accessible to the public or inmates. The Administrative Regulations Review Subcommittee's review process for any of these policies and procedures or administrative regulations, which may be filed with the regulations compiler, shall be conducted in closed sessions and held confidential.
- (7) KRS 61.870 to 61.884~~[61.880(1)]~~ to the contrary notwithstanding, upon receipt of a request for any record, the department shall respond to the request~~[determine]~~ within five (5) days after receipt of the request, excepting Saturdays, Sundays, and legal holidays, and state whether the record may be inspected or may not be inspected, or that the record is unavailable and when the record is expected to be available~~[shall be released]~~.

A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

197.022 *Personal attendance of state prisoner in civil action -- Transportation orders -- Payment of costs -- Participation of prisoner in action by alternative methods allowed.*

- (1) Whenever a court finds the personal attendance of a state prisoner is necessary in a civil action and orders the Justice Cabinet or its agent or any law enforcement officer to transport

a prisoner in connection with the civil action, the party requesting that the state prisoner be transported to the hearing shall pay the transportation cost, which shall include the estimated round trip cost, including the state mileage rate and the estimated associated salary cost of correctional staff.

- (2) The court shall cause all transportation orders to be delivered to the warden or jailer of the detention facility where the prisoner resides. As soon as practicable after the receipt of the order, the warden or jailer shall notify the prisoner and the court of the total transportation cost. If the payment is not received twenty-four (24) hours in advance of the scheduled hearing, no transportation shall be provided, irrespective of the order of the court commanding the Justice Cabinet or its agent or other law enforcement officer to transport a prisoner.
- (3) To the extent practicable, any action concerning a prisoner in which the court has determined that the prisoner's participation is required or permitted may be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the facility in which the prisoner is confined.
- (4) The provisions of this section pertaining to payment of transportation costs shall not apply to parties who have been determined by the court to be indigent within the meaning of KRS Chapter 31 or other applicable law.
- (5) The Justice Cabinet shall promulgate an administrative regulation or regulations governing this process.

HOUSE BILL 370 Temporary Motor Vehicle Tags

KRS 186A.100 IS AMENDED TO READ AS FOLLOWS:

- (1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for sixty (60) ~~thirty (30)~~ days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars (\$2), of which the clerk shall retain one dollar (\$1). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the Transportation Cabinet.
- (2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.
- (3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.
- (4) If the owner of a motor vehicle submits to the county clerk a properly completed application for Kentucky certificate of title and registration pursuant to KRS 186A.120, any motor vehicle required to be registered and titled in Kentucky, that is not currently registered and titled in Kentucky, may be equipped with a temporary tag, which shall be valid for thirty (30) days from the date of issuance, issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the

necessary documents in order to title and register the vehicle in Kentucky. The Transportation Cabinet may establish administrative regulations governing this section.

- (5) The county clerk may issue a temporary tag to the owner of a motor vehicle that is currently registered and titled in Kentucky. A temporary tag authorized by this subsection shall be used for emergency or unusual purposes as determined by the clerk for the purpose of maintaining the owner's current registration. A temporary tag authorized by this subsection may only be issued by the county clerk and shall be valid for a period of between twenty-four (24) hours and seven (7) days, as determined is necessary by the clerk. A county clerk shall not issue a temporary tag authorized by this subsection unless the owner of the motor vehicle applying for the tag presents proof of motor vehicle insurance pursuant to KRS 304.39-080. On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in KRS 304.39-087, proof of insurance shall be determined by the county clerk as provided in KRS 186A.042. A temporary tag issued pursuant to this subsection shall not be reissued by the county clerk for the same owner and same motor vehicle within one (1) year of issuance of a temporary tag.

HOUSE BILL 381 – HISTORIC MOTOR VEHICLES

A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

186.0435 *Display of vintage Kentucky license plates on historic vehicle.*

Any motor vehicle that meets the age requirements of a "historic vehicle" as used in KRS 186.043(2) and is registered in accordance with KRS 186.050 may display an authentic Kentucky license plate, twenty-five (25) years or older, or a reproduction of such a plate, if the current motor vehicle plate and the registration receipt are kept in the vehicle at all times.

KRS 186A.115 IS AMENDED TO READ AS FOLLOWS:

- (1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.
 - (a) The certified inspector shall be certified through the Department of Vehicle Regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.
 - (b) There shall be a five dollar (\$5) fee for this certification, payable to the sheriff's office, upon completion of certification.
 - (c) There shall be an additional fee of ten dollars (\$10) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.
 - (d) An inspection conducted in one (1) county within the Commonwealth of Kentucky under this subsection, and the fees paid for that inspection under this subsection, shall be honored by the certified inspector, sheriff, and county clerk in all other counties within this state. A second

- inspection shall not be required and additional fees shall not be required.
- (2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:
- (a) New motor vehicles sold by a dealer licensed in this state;
 - (b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a nonnegotiable registration document is to be issued;
 - (c) Motor vehicles operated by a motor carrier under a nonnegotiable certificate or permit issued by the Department of Vehicle Regulation;
 - (d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky may be inspected by the post provost or similar officer of the camp, post, or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle;
 - (e) Motor vehicles purchased in another state by persons who are residents of Kentucky but are temporarily residing out of state for at least thirty (30) days, but not longer than nine (9) months, may after the purchase of the vehicle be inspected by the state police, a local law enforcement agency, or the vehicle inspection program of another state. If an inspector in another state examines a vehicle under this paragraph, the purchaser may request the inspector to complete an affidavit stating the name of the owner, the vehicle identification number, the vehicle make and body style, the current state of registration, if any, and the current vehicle license or title number, if any. The Transportation Cabinet shall create an affidavit form containing at a minimum this information and shall post the form on the cabinet's Internet Web site. A person using an inspector in another state under this paragraph shall comply with all requirements of that state's inspection program, including payment of fees charged in that state. A person registering a motor vehicle for the first time in Kentucky under this paragraph shall transmit the application for registration, all supporting documentation, and payment for registration and usage tax to the county clerk of the county in which the person resides, and upon receipt of the appropriate documentation, the county clerk shall register the vehicle; and
 - (f) Motor vehicles no longer located in Kentucky but which require inspection in order to issue a corrected Kentucky title due to error in vehicle identification or serial number may be inspected by an inspector authorized to inspect vehicle identification or serial number by the laws of the state or foreign country where application for a new title has been submitted.
- (3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name shall be accompanied by proof of insurance in compliance with KRS 304.39-080 and one (1) of the following documents as applicable:
- (a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;
 - (b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, a properly assigned certificate of title;
 - (c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;
 - (d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;
 - (e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the Armed Forces of the United States, the county clerk may accept on behalf of the Department of Vehicle Regulation evidence of ownership provided the applicant by the

- United States Department of Defense; and
- (f) Except as provided in KRS 186A.072(2)(c) governing custom-built motorcycles, if the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by the documents specified by administrative regulations of the Department of Vehicle Regulation.
- (4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle, when registration or title is sought in this state, on the following points:
- (a) He shall ensure that the application is legible and properly executed to the extent required at the time of execution;
 - (b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the application, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;
 - (c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the application; and
 - (d) After exercising due diligence in inspecting the vehicle, the application, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided his first name, middle initial, and last name, and his title; the name of the county in which he serves; and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day, and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy, and date of his inspection.
- (5) The certified inspector shall refrain from executing the certificate of inspection if:
- (a) He has not personally and physically inspected the vehicle in accordance with this section;
 - (b) He has reason to believe that the vehicle displays an unlawfully altered vehicle identification number;
 - (c) The application and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;
 - (d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or
 - (e) He has probable cause to believe the vehicle is stolen.
- (6) Inspections on motor vehicles that meet the definition of a historic vehicle under KRS 186.043(2) and are brought into this state shall be limited to verification of the vehicle identification number with supporting documentation for purposes of titling.**

HOUSE BILL 509

Commercial Driver's Licensing

KRS 281A.010 IS AMENDED TO READ AS FOLLOWS:

- (1) "Alcohol" means:
 - (a) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percentum (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute

- therefor;
- (b) Wine of not less than one-half of one percentum (0.5%) of alcohol by volume; or
 - (c) Distilled spirits, which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or
 - (d) Any substance containing ethyl alcohol, hydrated oxide of ethyl, spirit of wine, or any distilled spirits including, but not limited to, ethanol, methanol, propanol, and isopropanol.
- (2) "Alcohol concentration" means:
 - (a) The number of grams of alcohol per one hundred (100) milliliters of blood;
 - (b) The number of grams of alcohol per two hundred ten (210) liters of breath; or
 - (c) The number of grams of alcohol per sixty-seven (67) milliliters of urine.
 - (3) "Cabinet" means the Transportation Cabinet of the Commonwealth of Kentucky.
 - (4) "Commerce" means:
 - (a) Any trade, traffic, or transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside of the United States; and
 - (b) Trade, traffic, and transportation in the United States that affects any trade, traffic, and transportation described in paragraph (a) of this subsection.
 - (5) "Commercial driver's license," or CDL, means a license issued to an individual in accordance with the requirements of this chapter or, if the license is issued by another state in accordance with the Federal Commercial Motor Vehicle Safety Act, to an individual that authorizes the individual to drive any class of commercial motor vehicle.
 - (6) "Commercial driver's license information system" or CDLIS means the national information system established to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
 - (7) "Commercial driver's instruction permit" means a permit issued pursuant to KRS 281A.120.
 - (8) "Commercial motor vehicle," or CMV, means a motor vehicle or combination motor vehicle used in commerce that is:
 - (a) Designed to carry property and has a gross vehicle weight rating as determined by federal regulation which has been adopted into cabinet administrative regulations pursuant to KRS Chapter 13A;
 - (b) Designed to transport sixteen (16) or more passengers, including the driver;
 - (c) Transporting hazardous materials and is required to be placarded in accordance with Title 49, Code of Federal Regulations, Part 172; or
 - (d) Any other vehicle that is required by cabinet administrative regulation, pursuant to KRS Chapter 13A, to be operated by a licensed commercial driver.
 - (9) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substances Act, 21 U.S.C. sec. 802(6), and includes all substances listed on Schedules I through V, of Title 21, Code of Federal Regulations, Part 1308, as adopted by the Transportation Cabinet by administrative regulation pursuant to KRS Chapter 13A. It shall also include those substances defined or listed in KRS Chapter 218A.
 - (10) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty, a plea of nolo contendere, or Alford plea entered and accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
 - (11) "Disqualification" means any of the following actions:

- (a) The suspension, revocation, or cancellation of a CDL by the Commonwealth or the jurisdiction of issuance;
 - (b) Any withdrawal of a person's privilege to drive a commercial motor vehicle by the Commonwealth or another jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle defect violations; or
 - (c) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. pt. 391.
- (12) "Drive" means to drive, operate, or be in physical control of a motor vehicle.
 - (13) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
 - (14) "Driver's license" means a license issued by a state to an individual that authorizes the individual to drive a motor vehicle.
 - (15) "Employee" means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent, owner-operator contractors while in the course of operating a commercial motor vehicle who are either directly employed by, under lease to, or operating in a manner indicating employment to an employer.
 - (16) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.
 - (17) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.
 - (18) "Gross combination weight rating," or GCWR, is the gross vehicle weight rating of power unit plus the gross vehicle weight rating of any towed unit. In the absence of a value specified by the manufacturer, GCWR shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and load therein.
 - (19) "Gross vehicle weight rating," or GVWR, means the value specified by the manufacturer as the maximum loaded weight of a single, a combination or an articulated vehicle.
 - (20) "Hazardous materials" means the definition found in Section 103 of the Hazardous Materials Transportation Law, 49 U.S.C. sec. 5101 et seq.
 - (21) "Highway" shall include any way or place of any nature when any part of it is open to the use of the public as a matter of right, license, or privilege for the use of vehicular traffic.
 - (22) "Imminent hazard" means a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a danger to health, property, or the environment exists.
 - (23) "Moped" shall have the same meaning as in KRS 186.010(5).
 - (24) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but shall not include any vehicle, machine, tractor, trailer, or semitrailers operated exclusively on a rail.
 - (25) "NDR" means the national driver register.
 - (26) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 C.F.R. sec. 386.72, 392.5, 395.13, or 396.9; comparable laws or regulations; or the North American Uniform Out-of-Service Criteria.
 - (27) "Resident" means a person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement.

- (28) "School bus" means a vehicle that meets the specification of KRS 156.153 used to transport preprimary, primary, or secondary school students between school and home, or to and from school-sponsored events. A school bus shall not include a bus used as a common carrier.
- (29) "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
- (a) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the specified speed limit;
 - (b) Reckless driving, as defined under state or local law, including conviction of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;
 - (c) Improper or erratic traffic lane changes;
 - (d) Following the vehicle ahead too closely;
 - (e) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
 - (f) Driving a commercial motor vehicle without a CDL;
 - (g) Driving a commercial motor vehicle without a CDL in one's possession or refusing to display a CDL upon request;
 - (h) Driving a commercial motor vehicle without the proper class of CDL or endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or types of cargo being transported; or
 - (i) Any conviction of an offense that requires mandatory suspension under KRS 186.560 or a serious violation as defined by Title 49 of the Code of Federal Regulations Part 383 or as amended by the Federal Highway Administration.
- (30) "State" means a state of the United States and the District of Columbia.
- (31) "State police" means the Department of State Police of the Commonwealth of Kentucky.
- (32) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn along a public highway, except devices moved by human or animal power, used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.**

KRS 281A.050 IS AMENDED TO READ AS FOLLOWS:

The provisions of this chapter shall not apply to:

- (1) Drivers of firefighting and other emergency equipment;
- (2) Drivers of **commercial motor**~~[military]~~ vehicles if those persons are:
 - (a) Military personnel~~[in uniform]~~; **and**
 - (b) Operating the vehicles in pursuit of a military purpose;~~[and~~
 - ~~(c) Properly licensed by the military;]~~
- (3) Drivers of **farm** vehicles that are:
 - (a) Used **to transport agricultural products, farm machinery, or farm supplies to or from a farm** ~~[exclusively in farm to market agricultural transportation];~~
 - (b) **Not used in the operations of a common or contract motor carrier** ~~[Operated in private carriage];~~
 - (c) Used within one hundred fifty (150) highway miles of the **farmer's farm** ~~[point of origin];~~ and
 - (d) Controlled and operated by a **farmer, including operation by**~~[farmer's]~~ employees or family members~~[if the motor vehicle is controlled by a farmer];~~ and
- (4) Drivers of vehicles that:
 - (a) Are designed as temporary living quarters for recreational, camping, or travel use; and

- (b) Operate on their own motor power or are mounted on or drawn by another vehicle.

KRS 281A.080 IS AMENDED TO READ AS FOLLOWS:

- (1) Each employer shall require the applicant to provide the information specified in KRS 281A.070. He shall inform the applicant that the information provided may be used or the applicant's previous employers may be contacted for the purpose of investigating the applicant's work history.
- (2) No employer shall knowingly allow, permit, or authorize a driver to drive a commercial vehicle during any period in which the driver:
 - (a) Has had his commercial driver's license suspended, revoked, or canceled by any state;
 - (b) Is currently disqualified from driving a commercial vehicle;
 - (c) Is subject to an out of service order in any state;
 - (d) Has more than one (1) driver's license;~~or~~
 - (e) Does not currently hold a valid commercial driver's license;or
 - (f) Is in violation of any of the railroad crossing offenses or conduct set forth in KRS 189.500, 189.560, or 189.565.**

KRS 281A.150 IS AMENDED TO READ AS FOLLOWS:

- (1) Every person seeking a commercial driver's license or a commercial driver's instruction permit shall first apply in person to the circuit clerk of the county in which the applicant resides or in the county where the person is enrolled in a driver training school if the applicant is not a resident. The application shall be in the form prescribed by KRS 281A.140 as provided by the cabinet. Except as provided in KRS 281A.160(6), each time a person applies for a commercial driver's license, an instruction permit, or seeks to upgrade or change his commercial driver's license, the person shall be required to:
 - (a) Update the application; and
 - (b) Submit the appropriate fee to the circuit clerk.
- (2) The cabinet shall set fees by administrative regulation, pursuant to KRS Chapter 13A, for the following applications that shall not exceed:
 - (a) **Except as provided in paragraph (g) of this subsection,** forty dollars (\$40) for each application for a commercial driver's license. The fee shall be based on the class, type of license, endorsement, restriction, or tests to be taken;
 - (b) Thirty-five dollars (\$35) for each application for a commercial driver's instruction permit;
 - (c) Fifteen dollars (\$15) for each application for a change or addition in class or type of license, endorsement, or restriction;
 - (d) Forty dollars (\$40) for each application for a duplicate if it is the first duplicate applied for within the time period for which the original license was issued. Sixty dollars (\$60) for a second or subsequent duplicate applied for within the time period for which the original license was issued. The fees required for a duplicate shall be in addition to fees charged under subsection (2)(c) of this section;
 - (e) Thirty-five dollars (\$35) for each application for renewal of a commercial driver's license;
 - (f) Sixty dollars (\$60) for each application for a transfer of a commercial driver's license; and
 - (g) Twenty dollars (\$20) for each application for **an initial and renewal**~~for a~~ commercial driver's license with an "S" **endorsement**~~restriction for the following persons:~~

1. ~~— A person who operates a school bus;~~
 2. ~~— A person who is employed by a mass transit authority created under the provisions of KRS Chapter 96A;~~
 3. ~~— A person who drives a vehicle that is operated under a nonprofit bus certificate established pursuant to KRS 281.619;~~
 4. ~~— A person who drives a vehicle registered pursuant to KRS 186.050(6); or~~
 5. ~~— A person who drives a fixed route bus system vehicle that is operated by a public entity pursuant to the provisions of KRS Chapter 281}.~~
- (3) All fees remitted to the clerk shall be nonrefundable regardless of whether the applicant completes the requirements for a commercial driver's license or is tested.
 - (4) All fees collected for the issuance of a commercial driver's license or a commercial driver's instruction permit shall be deposited into trust and agency accounts to be used exclusively for the administration and implementation of this chapter, except as prescribed in subsection (5) of this section. The accounts shall not lapse but shall be continuing from year to year.
 - (5) All fees collected pursuant to this section, shall be allocated between the Transportation Cabinet and Department of State Police, except a fifty cent (\$0.50) issuance fee shall be allocated during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the general fund from issuance of a commercial driver's license permit. A three dollar (\$3) issuance fee shall be allocated during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the general fund from issuance of a commercial driver's license.
 - (6) Any applicant who seeks reinstatement of his commercial driving privilege after a suspension, withdrawal, revocation, or disqualification shall pay a reinstatement fee of fifty dollars (\$50) in addition to those fees required by subsection (2) of this section and shall satisfy the requirements of KRS 281A.160. This fee shall not be required if his commercial driving privilege was withdrawn only as a result of the withdrawal of his privilege to drive a noncommercial motor vehicle.

KRS 281A.160 IS AMENDED TO READ AS FOLLOWS:

- (1)
 - (a) Except as provided in subsection (4) of this section, the State Police shall be responsible for administering both the knowledge and skills test required by KRS 281A.130.
 - (b) Applicants who fail the written knowledge test shall be permitted to retake the written test on the next day the tests are administered. Applicants who fail the written test six (6) times shall be required to wait three (3) days before taking the knowledge test again. Applicants who subsequently fail the written test three (3) additional times shall be required to wait three (3) days prior to retaking the test.
- (2)
 - (a) Except as provided for in subsection (3) of this section, at the time a CDL permit is issued:
 1. An applicant who has held a Kentucky operator's license for thirty (30) days or longer shall pay a skills-testing fee of fifty dollars (\$50); and
 2. An applicant who has held a Kentucky operator's license for less than thirty (30) days shall pay a

skills-testing fee of one hundred fifty dollars (\$150).

- (b) There is created within the State Treasury a trust fund to be known as the State Police CDL skills-testing fund. The fund shall be administered by the State Police and shall receive all skills-testing and retesting fees collected under subsections (2)(a) and (6)(c) of this section, in addition to any grants, gifts, or appropriations of state or federal moneys and any interest earned on moneys in the fund. Moneys in the fund shall not lapse and shall be carried forward to the next succeeding fiscal year. The State Police CDL skills-testing fund shall be used by the State Police to contract with and train civilian CDL skills examiners and to improve the logistics of the CDL skills-testing process.
 - (c) The State Police, upon request of an applicant who has passed both the vision and knowledge tests, may schedule the applicant for the skills test at the first available test date at a test site designated by the State Police but not less than ten (10) days after the applicant has filed the application and been issued a CDL permit. Except in extenuating circumstances, a retest for a failed portion of the skills test shall be given within three (3) days of a request of a retest.
 - (d) An applicant shall provide a class representative commercial vehicle, for the class of CDL for which the applicant is testing, in which to take the skills test. Unless the State Police grant an exemption at the time the application for testing is made, the vehicle supplied under this paragraph shall be unloaded. Upon arrival for the skills test, the applicant shall have in his or her possession a valid Kentucky operator's license, a valid CDL permit, and a current U.S. Department of Transportation physical card. A CDL-licensed driver who is at least twenty-one (21) years old shall accompany the applicant at all times the applicant is in operation of a commercial vehicle.
- (3) A testing fee shall not be charged to an individual applying for a CDL with an "S" endorsement restriction as defined in KRS 281A.170.
- (4) The State Police may authorize a third party to administer the skills test specified by this section if:
- (a) The test is the same that would otherwise be administered by the state; and
 - (b) The third party has entered into an agreement with this Commonwealth which complies with requirements of Title 49, Code of Federal Regulations, Part 383.75, as adopted by the Transportation Cabinet.
- (5) The State Police shall promulgate administrative regulations under KRS Chapter 13A that establish procedures that ensure an arm's-length relationship is maintained between a third-party tester and any owner, officer, or employee of any program offering commercial truck driving under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A.
- (6) (a) Applicants shall be permitted to take the skills test for a particular class vehicle an unlimited number of times; however, an applicant shall not retest more than one (1) time in any twenty-four (24) hour period.
- (b) The skills test shall consist of three (3) separate portions: pre-trip inspection, basic maneuvering, and road skills. An applicant must achieve a score of at least eighty percent (80%) on each portion of the skills test before a CDL may be issued to the applicant. An applicant who passes one (1) or more portions of the skills test but does not pass all portions of the skills test shall retest only on those portions of the skills test the applicant failed.
 - (c) An applicant who fails any portion of the skills test four (4) times shall be notified by the State Police that the applicant is required to wait one (1) week and pay a retest fee of fifty dollars (\$50) before retaking a portion of this skills test again.

- (d) Failure of an applicant to notify the State Police prior to missing an appointment for a skills test shall be considered a failure, on all parts of the skills test scheduled to be given, for the purposes of determining number of failures, waiting periods, and retesting fees under paragraph (c) of this subsection for individual applicants. A missed appointment failure under this paragraph shall not be reported as a failure to the board.
- (e) The provisions of KRS 281A.150 notwithstanding, an application fee shall not be charged for each test that is retaken as a result of a failing score.
- (7) An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of less than one (1) year shall pay the reinstatement fee as prescribed by KRS 281A.150(6) and shall receive his commercial driver's license with all endorsement and restrictions that were in effect at the time of suspension. An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of one (1) year or more shall submit to the skills, knowledge, and vision tests.
- (8) (a) The commissioner of the Kentucky State Police shall promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A to implement the provisions of this section.
- (b) Within ninety (90) days of April 22, 2006, the State Police shall promulgate administrative regulations under KRS Chapter 13A to set forth the qualifications for contract examiners retained under subsection (2)(b) of this section.

KRS 281A.170 IS AMENDED TO READ AS FOLLOWS:

- (1) The commercial driver's license shall be marked "commercial driver's license" and "CDL" and shall be, to the maximum extent practicable, tamper proof. It shall include but is not limited to the following information:
 - (a) The name and present resident address of the licensee;
 - (b) The licensee's color photograph;
 - (c) A physical description of the licensee including sex, height, weight, and eye color;
 - (d) The licensee's date of birth;
 - (e) The licensee's signature;
 - (f) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive together with any endorsements or restrictions;
 - (g) The name of this state;
 - (h) The dates between which the license is valid; and
 - (i) Any other information required by the cabinet, except for a person's Social Security number.
- (2) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the State Police.
 - (a) Classifications:
 - 1. Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.
 - 2. Class B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, and any vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C

vehicles.

3. Class C - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:

- a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or
- b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by administrative regulations of the cabinet, pursuant to KRS Chapter 13A.

4. Class D - All other vehicles not listed in any other class.

5. Class E - Moped only.

6. Class M - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.

(b) Endorsements:

- 1. "H" - Authorizes the driver to operate a vehicle transporting hazardous materials.
- 2. "T" - Authorizes operation of double trailers and triple trailers in those jurisdictions allowing the operation of triple trailers.
- 3. "P" - Authorizes operation of vehicles carrying passengers.
- 4. "N" - Authorizes operation of tank vehicles.
- 5. "X" - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.
- 6. "R" - Authorizes operation of all other endorsements not otherwise specified.
- 7. "S" - Authorizes operation of school buses.

(c) Restrictions:

- 1. "K" - Restricts the driver to operation of vehicles not equipped with airbrakes.
- 2. "I" - Restricts the driver to Kentucky intrastate commerce driving.
- 3. ["S" - Restricts the driver to school buses, church buses, buses operated by a mass transit authority created under the provisions of KRS Chapter 96A, buses operated under a nonprofit bus certificate established pursuant to KRS 281.619, and fixed route buses operated by a public entity pursuant to the provisions of KRS Chapter 281.

~~4.1~~"L" - Shall not include a Class "A" bus.

~~4.5~~"J" - Shall not include a Class "A" or "B" bus.

~~5.6~~"O" - Shall not include tractor, semitrailer style vehicles.

~~6.7~~"Z" - Exempt intracity zones for commercial vehicles.

~~7.8~~"0-9" - Other restrictions.

~~8.9~~"A" - Restricts the driver to operation of vehicles equipped with an automatic transmission because the person conducted the required skills test in a commercial vehicle equipped with an automatic transmission. A person wanting to remove this restriction in order to operate a vehicle with a manual transmission shall be required to successfully complete a skills test while operating a commercial vehicle equipped with a manual transmission.

- (3) Within ten (10) days after issuing a commercial driver's license, the cabinet shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.
- (4) A commercial driver's license issued to a resident pursuant to this chapter shall expire in four (4) years unless the license was issued to a resident under the age of twenty-one (21). A commercial driver's license issued to a person who is not a resident shall be issued for one (1) year and shall not be renewable. The fee for a commercial driver's license issued to a nonresident shall be the same as the fee charged to a resident.
- (5) A person under the age of twenty-one (21) shall not be licensed to operate a Class A, B, or C vehicle unless he has an "I" restriction. A commercial driver with an "I" restriction shall not drive a commercial motor vehicle in interstate commerce, unless he is exempt pursuant to 49 C.F.R. 391.2. A commercial driver under the age of twenty-one (21) shall not be allowed to operate a school bus or a vehicle transporting hazardous material in intrastate commerce.
- (6) The holder of a commercial driver's license shall be considered to hold a valid Kentucky driver's license issued under the provisions of KRS 186.412.

KRS 281A.190 IS AMENDED TO READ AS FOLLOWS:

- (1) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if convicted of:
 - (a) Driving or being in physical control of a motor vehicle under the influence of alcohol or a controlled substance;
 - (b) Driving or being in physical control of a motor vehicle while the alcohol concentration of the person's blood or breath or urine is four hundredths (0.04) or more;
 - (c) Leaving the scene of an accident involving a motor vehicle driven by a person who holds or is required to hold a CDL;
 - (d) Using a motor vehicle in the commission of any felony listed in KRS 186.560;
 - (e) Refusing to submit to testing as required by KRS 281A.220 when driving a motor vehicle;
 - (f) Committing a first violation of driving a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled, or when the person is disqualified from operating a commercial motor vehicle; or
 - (g) Causing a fatality through negligent or criminal operation of a commercial motor vehicle.

- (2) A person who holds or is required to hold a CDL shall be disqualified for life if convicted of two (2) or more violations of any of the offenses specified in subsection (1) of this section or any combination of those offenses, arising from two (2) or more separate incidents. The provisions of this subsection shall only apply to convictions that occurred after the disqualification dates established by the Federal Motor Carrier Safety Administration. The Transportation Cabinet shall set forth those dates in an administrative regulation promulgated pursuant to KRS Chapter 13A.
- (3) If any violation specified in subsection (1) of this section occurred while transporting a hazardous material required to be placarded, the person who holds or is required to hold a CDL shall be disqualified for a period of three (3) years.
- (4) Notwithstanding any other provisions of law, a period of suspension, revocation, or disqualification imposed under the provisions of this chapter shall not be reduced. However, in accordance with the provisions of Title 49, Code of Federal Regulations, Part 383, the cabinet may establish guidelines including conditions under which a disqualification of not less than ten (10) years may be imposed.
- (5) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.
- (6) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days consecutively if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.
- (7) A person who holds or is required to hold a CDL shall be disqualified for the first offense from driving a commercial motor vehicle for six (6) months if the person has been convicted of committing any of those offenses enumerated in KRS 186.610 involving a commercial motor vehicle, commercial driver's license, or application for that license. For the second and each subsequent offense, the person shall be disqualified from operating a commercial motor vehicle for a period of one (1) year.
- (8) The cabinet shall deny a person a commercial driver's license or shall suspend, revoke, or cancel his commercial driving privilege, subject to a hearing conducted in accordance with KRS 189A.107, when the cabinet has reason to believe that the person refused to submit to a test to determine his alcohol concentration while driving a commercial motor vehicle.
- (9) If a person who holds or is required to hold a CDL is convicted of any of the railroad crossing offenses or conduct enumerated in KRS 189.500, 189.560, and 189.565, then the person shall be disqualified from operating a commercial motor vehicle for a period of:
 - (a) Sixty (60) days for the first offense;
 - (b) One hundred twenty (120) days for the second offense within a three (3) year period; and
 - (c) One (1) year for the third or subsequent offense within a three (3) year period.
- (10) If a person who holds or is required to hold a CDL violates an out-of-service order while transporting nonhazardous materials, then the person shall be disqualified from operating a commercial motor vehicle for a period of:
 - (a) Ninety (90) days for the first offense;
 - (b) One (1) year for the second offense in a separate incident within a ten (10) year period; and
 - (c) Three (3) years for the third or subsequent offense in a separate incident within a ten (10) year period.
- (11) If a person who holds or is required to hold a CDL violates an out-of-service order while transporting hazardous materials required to be placarded under the 49 U.S.C. sec. 5101 et seq., or operating a commercial motor vehicle designed to transport sixteen (16) or more passengers, including the

driver, then the person shall be disqualified from operating a commercial motor vehicle for a period of:

- (a) One hundred eighty (180) days for the first offense; and
 - (b) Three (3) years for the second or subsequent offense in a separate incident within a ten (10) year period.
- (12) After disqualifying a commercial driver's license holder or suspending, revoking, or canceling a commercial driver's license, the Transportation Cabinet shall update its records to reflect that action within ten (10) days of receipt. After disqualifying a commercial driver's license holder or suspending, revoking, or canceling an out-of-state commercial driver's license holder's privilege to operate a commercial motor vehicle for at least sixty (60) days, the Transportation Cabinet shall notify the licensing authority of the state which issued the commercial driver's license or commercial driver's instruction permit with this information within ten (10) days. The notification shall include both the disqualification and the violation that resulted in the disqualification, suspension, cancellation, or revocation.
- (13) Upon notice from the Federal Motor Carrier Safety Administration that a driver has been determined to be an imminent hazard and has been disqualified from operating a commercial motor vehicle, the cabinet shall act in accordance with the provisions of 49 C.F.R. sec. 383.52. The cabinet shall notify the driver of the disqualification, which shall not exceed one (1) year in duration, and of the right to appeal to the Federal Motor Carrier Safety Administration in accordance with 49 C.F.R. sec. 383.52.
- Section 6. KRS 281A.240 is amended to read as follows:
- (1) Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle in this state if the person has a valid commercial driver's license or commercial driver's license instruction permit issued by any state, Canada, or Mexico in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver's license, if the person's driving privilege is not suspended, revoked, or canceled; and if the person is not disqualified from driving a commercial motor vehicle or subject to an out-of-service order.
 - (2) The Commonwealth of Kentucky shall give all out-of-state convictions full faith and credit and treat them for sanctioning purposes under this chapter as if they occurred in this state. Except as otherwise provided, when in this chapter reference is made to an offense which is a violation of a provision of this chapter or other Kentucky state law, the reference shall be deemed to include offenses under any local ordinance, any federal law, any law or local ordinance of another state substantially similar to any provision of the Kentucky Revised Statutes.

KRS 281A.270 IS AMENDED TO READ AS FOLLOWS:

The Transportation Cabinet may adopt in whole or in part those federally mandated requirements set forth in Title 49, Code of Federal Regulations, Part 383, notwithstanding the fact that the provisions may conflict with other provisions of this chapter. ~~[The authority granted in this section shall expire January 1, 1992.]~~